

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

BYLAWS

ARTICLE I: THE AGENCY

Section 1: Name: The name of the Agency shall be the Fulton County Industrial Development Agency.

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

Section 3: Office of Agency: The office of the Agency shall be: c/o Fulton County Planning Department, 1 East Montgomery Street, Johnstown, NY, 12095.

Section 4: Membership: The Agency shall consist of seven (7) members. Members shall be appointed by the Fulton County Board of Supervisors and shall serve at the pleasure of the Board of Supervisors.

Section 5: Duties and Responsibilities of Members: Members shall, at a minimum, have the following duties and responsibilities:

- (a) Execute direct oversight of the Executive Director, Chief Fiscal Officer, Legal Counsel, Auditor and other staff of the Agency.
- (b) Understand, review and monitor the implementation of fundamental financial and management controls and operational decisions of the Agency.
- (c) Establish policies regarding the payment of salary, compensation and reimbursements to staff.
- (d) Adopt a code of ethics applicable to each officer, director and employee.
- (e) Adopt written policies and procedures to protect “Whistle Blowers” from retaliation.
- (f) Adopt a defense and indemnification policy for Board members and officers and employees.
- (g) Adopt written investment guidelines and then annually review and approve such guidelines and adherence thereto each year.
- (h) Adopt a written policy with respect to the disposition of property and to annually review and approve such written policy and adherence thereto each year.
- (i) Perform duties in good faith with due diligence and care.
- (j) Apply judgment in the best interest of the authority, its mission and the public.

- (k) Execute an acknowledgement prescribed by the ABO after taking oath of office where members acknowledge their role and fiduciary responsibilities.

Section 6: Training:

- (a) Agency members shall participate in State-approved training regarding their legal, fiduciary, financial and ethical responsibilities within one (1) year of appointment to the Board.
- (b) Agency members shall participate in continuing training as may be required to remain informed of best practices, and regulatory and statutory changes relating to effective oversight of management and financial activities of Agency.

Section 7: Independent Member Requirements:

- (a) All members of the Agency shall be independent which shall be a member who:
 - (1) Is not, and in the past two (2) years has not been, employed by the Agency or an affiliate 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 \$15,000 for goods and services provided to the public authority or received any other form of financial assistance valued at more than \$15,000 from the Agency.
 - (3) Is not a relative of an executive office or employee in an executive position of the Agency or an affiliate.
 - (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.

Section 8: Separation of Agency and Management: No member shall serve as Executive Director.

Section 9: Code of Ethics:

- (a) The Agency shall adopt and maintain a Code of Ethics applicable to each member and employee of the Agency.
- (b) The Code of Ethics must, at a minimum, contain the standards set forth in Section 74 of the New York Public Officers Law.
- (c) The Code of Ethics must address conflicts of interest, confidentiality and undue influence.
- (d) The Code of Ethics must be included in the Annual Report.

Section 10: Fiscal Year: The Agency's fiscal year shall be from January 1 to December 31.

ARTICLE II: OFFICERS:

Section 1: Officers: The officers of the Agency shall be a Chairman, Vice Chairman, Secretary and Treasurer.

Section 2: Chairman: The Chairman shall:

- (a) Preside at all meetings of the Agency.
- (b) Except as otherwise authorized by resolution of the Agency, sign all agreements, contracts, deeds and any other instruments of the Agency.

Section 3: Vice Chairman: The Vice Chairman shall:

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

Section 4: Secretary: The Secretary shall:

- (a) Keep in safe custody the seal of the Agency and shall have power to affix such seal to all contracts and other instruments authorized to be executed by the Agency.

Section 5: Treasurer: The Treasurer shall:

- (a) Oversee work of Chief Financial Officer.
- (b) Sign all instruments of indebtedness and be authorized to:
 - 1) Sign checks for payment of money;
 - 2) Pay out and disburse monies authorized of the Agency.
- (c) Sign checks of the Agency.

Section 6: 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 Bylaws of the Agency or by the rules and regulations of the Agency.

Section 7: Appointment of Officers: All officers of the Agency shall be appointed at the annual meeting of the Agency from among the members of the Agency and shall hold office for one year, or until their successors are appointed.

Section 8: Vacancies: Should any office become vacant, the Agency shall appoint a successor from among its membership at the next regular meeting, and such appointment shall be for the unexpired term of said office.

ARTICLE III: STAFF

Section 1: Executive Director: The Agency shall annually appoint an Executive Director. The Executive Director shall not be a member of the Agency. This appointment shall be made at the annual meeting of the Agency.

The Executive Director shall be responsible for:

- 1) General supervision over the administration of the business and affairs of the Agency, subject to the direction of the Agency.
- 2) Management of all projects of the Agency.
- 3) Prepare agendas for all Agency meetings and distributes agendas to Agency members prior to each meeting.
- 4) Prepare and distribute minutes of all Agency meetings.
- 5) Work with Audit Committee in preparation of Annual Audit and Financial Reports.
- 6) Work with Treasurer in administering and managing fiscal affairs of the Agency.
- 7) Prepare and distribute Annual Report.
- 8) Receipt of all communications and correspondence to the Agency.
- 9) Maintain Agency files.
- 10) Other work as directed by the Agency.

Section 2: Legal Counsel: The Agency shall annually appoint a legal counsel who shall serve at the pleasure of the Agency. Legal counsel shall provide legal advice as requested by the Agency. This appointment shall be made at the Agency's annual meeting.

Section 3: Auditor: The Agency shall annually appoint an Auditor in accordance with State law to prepare the annual audit and financial reports required to be prepared by the Agency. This appointment shall be made at the Agency's annual meeting.

Section 4: Chief Financial Officer: The Agency shall annually appoint a Chief Financial Officer.

The Chief Financial Officer shall:

- (a) 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 Agency may select.
- (b) Keep regular books of accounts showing receipts and expenditures.
- (c) Render to the Agency, at each regular meeting, a Budget Report and a summary of the financial condition of the Agency.
- (d) Sign checks of the Agency.

Section 5: Additional Personnel: The Agency may, from time to time, employ such personnel as it deems necessary to exercise its powers, duties and functions, as prescribed by the NYS Industrial Development Act, as amended, and all other laws of the State of New York applicable thereto. The selection and compensation of all personnel shall be determined by the Agency, subject to the laws of the State of New York.

Section 6: 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 onto all persons who are employed by the IDA within the meaning of such law and the IDA shall be liable for the costs incurred under the provision of Section 18 of the Public Officers Law.

ARTICLE IV: MEETINGS

Section 1: Annual Meetings: The annual meeting of the Agency shall be held in January of each year.

Section 2: Regular Meetings: Regular meetings of the Agency will be called by the Executive Director, Chairman or by resolution of the Agency. Notice of all meetings shall be given to the local media.

Section 3: Special Meetings: The Chairman may, when he/she deems it desirable, and shall, upon the written request of two members of the Agency, call a special meeting of the Agency for the purpose of transacting any business designated in the call. The call for a special meeting may be delivered to each member of the Agency or may be mailed or e-mailed to the business or home address of each member of the Agency at least three (3) days prior to the date of such special meeting. Waivers of notice may be signed by any members failing to receive a proper notice.

Section 4: Quorum: At all meetings of the Agency, a majority of the members of the Agency shall constitute a quorum for the purpose of transacting business, provided that a smaller number may meet and adjourn to some other time or until the quorum is obtained.

Section 5: Order of Business: At the regular meetings of the Agency, the following shall be the order of business:

1. Attendance.
2. Call meeting to order.
3. Approve minutes of previous meeting.
4. Treasurer Report
5. Committee Reports.
6. Old Business.
7. New Business.
8. Other Business.
9. Close of Meeting.

Section 6: Manner of Voting:

- 1) The voting on all motions or resolutions coming before the Agency shall be by a call of yeas and nays and shall be entered into the minutes of such meeting. A majority of the total membership of the Agency shall approve all motions and resolutions.

Section 7: Open Meetings Law: All meetings shall be conducted in conformance with the NYS Open Meetings Law.

ARTICLE V: COMMITTEES:

Section 1: Audit Committee: The Chairman shall annually appoint at least three (3) independent Agency members to serve on the Audit Committee. Non-independent members may be appointed provided that independent members constitute a majority. The Audit Committee shall be responsible to:

- 1) Assure that the Agency fulfills its responsibilities for the Agency's internal and external audit process, the financial reporting process and the system of risk assessment and internal controls over financial reporting; and
- 2) Provide an avenue of communication between the independent auditor and Agency.

- 3) Recommend to the Agency the hiring of an independent auditor, establish compensation to be paid to the Auditor and provide direct oversight of the performance of the independent annual audit performed by the independent Auditor.

Section 2: Governance Committee: The Chairman shall annually appoint at least three (3) independent Agency members to serve on the Governance Committee. Non-independent members may be appointed provided that independent members constitute a majority. The Governance Committee shall be responsible to:

- 1) Keep the Agency informed of current best practices in corporate governance.
- 2) Review and update the Agency's governance principles and practices; and
- 3) Advising the Fulton County Board of Supervisors on the skills, qualities and professional or educational experiences necessary to be effective Agency members.
- 4) Examine ethical and conflict of interest issues, perform Agency self-evaluations and recommend Bylaws or changes to them.

Section 3: Finance Committee: The Chairman shall annually appoint at least three (3) independent members to serve on the Finance Committee. Non-independent members may be appointed provided that independent members constitute a majority. The Finance Committee shall be responsible to:

- 1) Review all proposals involving the issuance of debt by the Agency.
- 2) Prepare and submit recommendations to the Agency Board of Directors regarding the issuance of any debt by the Agency.
- 3) Prepare and submit to the Agency Board of Directors proposed policies regarding the issuance of debt by the Agency.

Section 4: Other: The Chairman or Agency shall create other Committees as deemed necessary and appropriate. The Chairman shall appoint members to serve on all such Committees.

ARTICLE VI: ANNUAL REPORT

Section 1: Annual Report: The Agency shall prepare an Annual Report and submit said report to the Fulton County Board of Supervisors, Fulton County Treasurer and NYS Authority Budget Office by March 30th of each year.

Section 2: Annual Report Contents:

- 1) Agency's operations and accomplishments.
- 2) Agency's receipts and disbursements, or revenues and expenses, during such fiscal year.
- 3) Agency's assets and liabilities at the end of its fiscal year including the status of reserve, depreciation, special or other funds and including the receipts and payments of these funds.
- 4) A schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year as part of a schedule of debt issuance.
- 5) A compensation schedule salary, compensation, allowance and/or benefits provided to any officer, director or employee in a decision making or managerial position of such Agency whose salary is in excess of one hundred thousand dollars.
- 6) The projects undertaken by the Agency during the past year.
- 7) Listing of (i) all real property of the Agency having an estimated fair market value in excess of \$15,000 that the authority intends to dispose of; (ii) all such property held by the Authority at the end of the period covered by the report; and (iii) all such property disposed of during such period.
- 8) Agency's Code of Ethics; and an assessment of the effectiveness of its internal control structure and procedures.

ARTICLE VII: BUDGET

Section 1: The Agency shall submit to the Chairman and Clerk of the Fulton County Board of Supervisors, the Fulton County Treasurer and the Authority Budget Office a budget report containing, for operations and capital construction, actual receipts and expenditures of last completed fiscal year, estimated receipts and expenditures for the next fiscal year and the current fiscal year.

Section 2: The Budget Report shall be submitted at least sixty (60) days before the start of the Agency's fiscal year.

ARTICLE VIII: INDEPENDENT AUDIT

Section 1: The Agency shall have annually prepared an Independent Audit Report, a management letter and other external examination of the books and accounts of the Agency.

Section 2: The Independent Auditor utilized by the Agency shall be subject to the following restrictions:

- (a) The same lead (or coordinating) audit partner cannot provide auditing services to the Agency for more than five (5) consecutive years.
- (b) The independent accounting firm cannot perform certain non-audit services to the Agency contemporaneously with the audit without written approval from the Audit Committee of the Agency.
- (c) The Accounting firm cannot perform auditing services for the Agency if any officer of the Agency was employed by that firm and participated in any capacity in the audit of the Agency during the one-year period preceding initiation of the annual audit.

Section 3: The independent auditors must timely report to the Audit Committee of the Agency the following:

- (a) All critical accounting policies and practices to be used.
- (b) Any alternative treatments of financial information that have been discussed with Agency officials, ramifications of the use of such alternative treatments and the treatment preferred by the accounting firm.
- (c) Other material written communications between the accounting firm and Agency management.

ARTICLE IX: MISCELLANEOUS

Section 1: Conflicts of Interest: Each member of the Agency 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 Chairperson, in cooperation with the Legal Counsel, will annually certify that there is in full force and effect insurance to protect the Agency and individual members thereof, from legal action, which might be brought against them because of their activities related to the Agency.

Section 2: Annual Financial Disclosure: Each member of the Agency shall annually complete and file with the Fulton County Board of Supervisors a Code of Ethics Review form in compliance with Fulton County's Ethics Law.

ARTICLE X: AMENDMENTS:

Section 1: Amendments to Bylaws: The bylaws 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 a special meeting, but no such amendment shall be adopted unless at least a seven day written notice thereof has been previously given to all members of the Agency.

Adopted: March 15, 2007
 September 3, 2010