

BYLAWS OF THE TOWN OF LOCKPORT INDUSTRIAL DEVELOPMENT AGENCY

ADOPTED ON
DECEMBER 14, 2006

Revised and Adopted February 9, 2012

ARTICLE I THE AGENCY

Section 1. Name The name of the Agency shall be the "Town of Lockport Industrial Development Agency".

Section 2. Seal of the 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 the Agency The office of the Agency shall be at the Lockport Town Hall, 6560 Dysinger Road, Lockport, New York 14094 and the Agency may have other offices at such other places as the Agency may from time to time designate.

Section 4. Members of the Agency

- a. Membership of the Agency shall consist of seven members appointed by the Town Board of the Town of Lockport or such other number of members as established by the Town Board in accordance with the New York State Industrial Development Agency Act (the "Act").
- b. Independent Members. A majority, other than those who serve by virtue of holding a civil office, shall be Independent Members. An Independent Member is not, and has not within the last two years, been employed in any executive capacity of the IDA or an affiliate of the IDA or employed by an entity that received payment of any kind valued at more than \$15,000 from the IDA or is not an immediate relative of an executive officer or executive employee of the IDA or a registered lobbyist paid to lobby the IDA or an affiliate of the IDA. This provision shall apply to members appointed after January 15, 2006.
- c. New Members. Any New Member, appointed after January 15, 2006, shall participate in state approved training with respect to their legal, fiduciary, financial and ethical responsibilities within one year of their appointment to the Board.

Section 5. Purpose The purposes of the Agency are to promote, develop, encourage and assist economic development throughout the Town of Lockport in accordance with the provisions of the Act. The Agency shall have full power and authority to do all things authorized under such Act for industrial development agencies.

ARTICLE II OFFICERS & MEMBERSHIP

Section 1. Officers The officers of the Agency shall be a Chairman, a Vice Chairman, a Secretary, a Recording Secretary, an Assistant Secretary, a Treasurer, an Assistant Treasurer, a Chief Executive Officer, a Chief Financial Officer and such officers as designated by the Agency. The Agency, may, from time to time leave the office of Recording Secretary, Assistant Secretary and Assistant Treasurer vacant. A member of the Agency may hold more than one office except that the office of Chairman and Secretary must be held by different members of the Agency. The Chief Executive Officer and the Chief Financial Officer cannot be members of the Agency.

Section 2. Chairman The Chairman of the Agency shall be a member of the Agency and shall preside at all meetings of the Agency. The Chairman shall sign all agreements, contracts, deeds and any other instruments on behalf of the Agency, except as otherwise authorized or directed by resolution of the Agency. The Chairman shall submit his recommendations and such other information as he shall deem pertinent concerning the business, affairs and policies of the Agency at each meeting. The Chairman of the Agency shall not be the Chief Executive Officer or the Chief Financial Officer of the Agency.

Section 3. Vice Chairman The Vice Chairman shall be a member of the Agency. The Vice Chairman shall perform the duties of the Chairman in the absence or incapacity of the Chairman. In the event of the resignation or death of the Chairman, the Vice Chairman shall become acting Chairman and perform the duties of the Chairman until such time as the Agency shall elect a new Chairman.

Section 4. Secretary The Secretary shall be a member of the Agency. He shall keep all records of the Agency, shall act as Secretary at the meetings of the Agency and shall keep records of all votes thereat. He shall record the proceedings of the Agency in the journal of proceedings kept for such purpose. He shall perform all duties incident to this office. He shall have custody of the seal of the Agency and shall have the power to affix the seal to all contracts and other instruments authorized by the Agency to be executed. Notwithstanding the foregoing, the Secretary may designate that the Recording Secretary take the minutes of the meeting on behalf of the Secretary and such records shall be retained at the office of the Agency.

Section 5. Assistant Secretary The Assistant Secretary, who shall be legal counsel for the Agency, shall perform the duties of Secretary in the absence or incapacity of the Secretary. In the case of the resignation or death of the Secretary, the Assistant Secretary shall perform the duties of the Secretary until such time as the Agency shall elect a new Secretary. The Assistant Secretary need not be a member of the Agency.

Section 6. Treasurer The Treasurer shall be a member of the Agency. The Treasurer shall exercise supervision and control over the Chief Financial Officer of the Agency. He shall receive and review the financial reports prepared by the Chief Financial Officer and shall report to the board on such matters. The Treasurer may serve as a member of the Audit Committee.

Section 7. Assistant Treasurer The Assistant Treasurer shall perform the duties of the Treasurer in the absence or incapacity of the Treasurer. In the event of the resignation or death of the Treasurer, the Assistant Treasurer of the Agency shall perform the duties of the Treasurer until such time as the Agency shall elect a new Treasurer. The Assistant Treasurer need not be a member of the Agency.

Section 8. Recording Secretary The Agency may appoint a Recording Secretary to take minutes of the meeting and prepare copies of such written minutes, subject to review and approval by the Secretary and the members of the Agency, and perform other services required by the Agency. If the Recording Secretary shall also be an employee of the Town or IDA, such Recording Secretary shall assist the Secretary in maintaining the records of the Agency. Such Recording Secretary need not be a member of the Agency and may be paid for services rendered.

Section 9. Chief Executive Officer The Agency shall appoint a Chief Executive Officer (CEO) who shall not be a member of the Agency. The CEO shall be responsible for the discharge of the executive and administrative functions of the Agency.

Section 10. Chief Financial Officer The Agency shall appoint a Chief Financial Officer. The Chief Financial Officer shall have the care and custody of all funds of the Agency and shall have all such funds deposited in the name of the Agency in such banks as the Agency may designate. Except as otherwise provided by resolution of the Agency, the Chief Financial Officer shall sign all instruments of indebtedness, orders and checks for the payment of money by the Agency. Except as otherwise authorized by resolution of the Agency, all such instruments, orders and checks shall be countersigned by the Treasurer. The Chief Financial Officer shall have regular books of account kept on an accrual basis showing all receipts and expenditures. He shall report to the Treasurer of the Agency who shall exercise care and supervision over him. He shall provide the information required by the Treasurer to allow the Treasurer to render to the Agency at each regular meeting, an account of the financial transactions and current financial

condition of the Agency. He shall give such bond for the faithful performance of his duties as the Agency may determine to be necessary or appropriate. The Chief Financial Officer shall not serve as a member of the Audit Committee.

Section 11. 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 its bylaws or by its rules, regulations or resolutions adopted by the Agency.

Section 12. Election of Officers All Officers of the Agency shall be elected at the annual meeting of the Agency. Officers shall hold offices for one year or until their successors are elected. If the term of an Agency member shall terminate, his term of office as an officer shall also terminate.

Section 13. Vacancies Should any office become vacant, the Agency shall elect a successor at the next regular meeting of the Agency and such election shall be for the unexpired term of said office.

Section 14. Members of the Agency

- a. Term- Appointment to the Agency shall be at the pleasure of the Town Board and each member shall continue as a member until a successor member is appointed and has qualified.
- b. Duties and Responsibilities- Duties of members of the Agency shall be, but not limited to, execute direct oversight of the CEO and senior management of the IDA; understand, review and monitor the implementation of fundamental financial and management controls and operational decisions of the IDA; establish policies regarding the payment of salary, compensation and reimbursements to, and establish the rules for the time and attendance of the CEO and senior management; adopt a code of ethics applicable to each officer, member and employee of the IDA; adopt written policies and procedures to protect "whistle blowers" from retaliation; adopt a defense and indemnification policy for officers, members, and employees of the IDA; adopt written investment guidelines and then annually review such guidelines and adherence thereto each year; adopt a written policy with respect to the disposition of property and then annually review such policy and adherence thereto each year; and participate in continuing education classes or programs as needed to remain informed of best practices, regulatory and statutory changes relating to the direct oversight of the management and financial activities of public authorities and to adhere to the highest standards of responsible governance.

Section 15. Additional Personnel The Agency from time to time may employ such personnel as it deems necessary to exercise its powers, duties, and functions as prescribed by the New York State Industrial Development Agency

Act, as amended and all other laws of the State of New York applicable thereto. The selection and compensation of all personnel, including the Chief Executive Officer and Chief Financial Officer, shall be determined by the Agency subject to the laws of the State of New York.

ARTICLE III MEETINGS

Section 1. Annual Meeting The Annual Meeting of the Agency shall be held in January, at the regular meeting place of the Agency or at such other place and time as the Agency shall designate.

Section 2. Regular Meetings Regular meetings of the Agency shall be held at such times and places as from time to time may be determined by the Agency.

Section 3. Special Meetings The Chairman of the Agency may, when he deems it necessary and desirable, and shall upon 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 to the business or home address of each member of the Agency at least two days prior to the date of such special meeting. Waivers of Notice may be signed by any member of the Agency that fails to receive proper notice. At such special meeting, no business shall be considered other than that as designated in the call, but if all members of the Agency are present at a special meeting, with or without written notice thereof, and all are agreeable thereto, any and all business may be transacted at such special meeting. Notwithstanding the foregoing, the Agency with the consent of all members may provide that notice of such special meeting be given via email, provided that such notice shall not be deemed effective unless all members provide acknowledgment of receipt of such notice.

Section 4. Executive Session When it is determined by the Agency that any matter pending before it is confidential in nature, it may, upon its own motion, and in compliance with the requirements of the Open Meetings Law, meet in executive session and exclude non-members from such session.

Section 5. Quorum At all meetings of the Agency, a majority of all the members of the Agency appointed by the Town Board as 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 until a quorum is present.

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

1. Roll Call
2. Reading and Approval of the Minutes of the previous meeting.

3. Bills and Communications
4. Treasurer's Report
5. Reports of Committees
6. Unfinished Business
7. New Business
8. Adjournment

All resolutions of the Agency shall be in writing and be recorded in the minutes of the proceedings of the Agency.

Section 7. Manner of Voting The voting on all questions coming before the Agency shall be by majority vote of the members with the vote to be entered into the minutes of such meeting. Any action of the Agency shall be binding, upon determination by a majority vote of the entire membership of the Agency.

ARTICLE IV AMENDMENTS

Section 1. Amendments to Bylaws The Bylaws of the Agency may be amended with the approval of the majority of all members of the Agency at a regular meeting or at a special meeting of the Agency called for such purpose, but no such amendment shall be adopted unless at least twenty (20) days written notice thereof has been previously given to all members of the Agency, unless such notice is waived by a two-thirds (2/3) vote of all members of the Agency.

ARTICLE V POLICY AND PROCEDURES

Section 1. Projects to be considered by this Agency It is the policy of this Agency that any project shall be considered which shall conform to the letter and the spirit of the Act and other laws of New York State.

Section 2. Site of Agency Projects The Agency shall not approve any projects to be located on a site or within an area which does not conform to or has not been granted a variance from the zoning laws of the Town of Lockport of such site or area. The Agency shall not approve any project which shall be in violation of the health, labor or other laws of the State of New York or the United States or the local laws or ordinances of the Town of Lockport.

Section 3. Payment in Lieu of Taxes The Agency shall make independent evaluations concerning payments in lieu of taxes on each project and will negotiate those payments as required to induce new industry into the Town of Lockport.

Section 4. Conveyance of Property The Agency may insert in a contract for a project that upon payment in full of all notes, bonds or indebtedness incurred in connection with a project that the Agency will convey the lands, buildings, and equipment involved in said project and so paid for to the tenant or operator of the same upon terms set forth in such contract and that the additional consideration for such conveyance may be nominal. Such conveyance in accordance with the provisions of such contract shall be deemed a ministerial act and shall not require further approval by the members of the Agency.

Section 5. Rules and Regulations The Agency may by resolution adopt such rules, regulations, policies and procedures as it may deem necessary and appropriate to the operation so long as the same shall not be contrary to these bylaws, as they may be amended from time to time.

Section 6. Annual Budget The Agency shall adopt an annual budget no later than sixty (60) days before the commencement of the coming fiscal year and file such budget with the New York State Authority Budget Office and other state and local officials and agencies as required.

Section 7. Annual Audited Financial Statement of Records and Accounts

- a. The Agency shall annually prepare an Annual Audited Financial Statement in compliance with State Law and shall file a copy of such statement with the Town Board and required state agencies of the Town of Lockport within ninety (90) days after the close of the Agency's fiscal year for its proceedings and its activities during the preceding fiscal year.
- b. The Agency may also require any other operating statements which it may determine to be necessary for daily operations.

Section 8. Compliance with State Reporting Requirements The Agency shall retain the services of a certified public accounting firm to independently audit the annual report to the State of New York required by all agencies under the Act. Such report shall be submitted to the State in the time frame so provided, except that an extension may be requested, if necessary to complete such report.

Section 9. Committees The Agency may create committees and the Chairman shall make the respective appointments. Standing committees of the Agency shall include:

- a. **Audit Committee.** The Audit Committee shall be comprised of three Independent Members as defined in Article I Section 4. The duties and responsibilities of the Audit Committee shall be to recommend to the Agency the hiring of a CPA firm to conduct the annual

independent audit, determine the amount of compensation to be paid to the CPA firm, and provide direct oversight of the performance of the annual independent audit.

- b. Governance Committee. The Governance Committee shall be comprised of three Independent Members as defined in Article I Section 4. The duties and responsibilities of the Governance Committee shall be to keep the Board informed of current best governance practices, to review corporate governance trends, to update the IDA's corporate governance principles and to advise the Agency on the skills and experiences which are suggested of potential new Agency Members.

Section 10. Agency Web site The Agency shall maintain an official Internet Web site. The Web site shall contain the Agency's mission, most recent Annual Audited Financial statement, current year budget, most recent independent audit report and most recent property disposition guidelines.