



ENERGY IMPROVEMENT CORPORATION, LDC

Special Meeting of the Members: February 4, 2013

A special Meeting of the Members of EIC was held on Monday, February 4, 2013.

On a motion by Lee Roberts and seconded by Susanne Donnelly the meeting was called to order at 12:40pm.

PRESENT:

Lee Roberts, Bedford
Susanne Donnelly, Town of Ossining
Mark Thielking
Joe DelSindaco

NUMBER OF DIRECTORS

On a motion by Susanne Donnelly and seconded by Lee Roberts, it was unanimously agreed that the members confirm the Energy Improvement Corporation's authorized number of Directors has been eleven (11) since September 7, 2011. Be it further agreed that the members hereby ratify and confirm the acts of the Directors on behalf of the Corporation since the inception of the Corporation and ratify and confirm that the following people are and have been duly authorized directors of Energy Improvement Corporation since the dates set forth next to their names:

Mark Thielking 7/15/11 Leo Wiegman 7/15/11
Neil Alexander 7/15/11 Mike Gordon 7/15/11
Tom Kelly 9/07/11 Mary Beth Kass 7/15/11
Andy Chintz 7/15/11 Olivia Farr 7/15/11
Kathryn Hoenig 9/07/11 \*\*\*vacant\*\*\* 7/15/11
Lee Roberts 7/15/11

All in favor, so be it

RESOLVED that that the members confirm the Energy Improvement Corporation's authorized number of Directors has been eleven (11) since September 7, 2011. Be it further agreed that the members hereby ratify and confirm the acts of the Directors on behalf of the Corporation since the inception of the Corporation and ratify and confirm that the following people are and have been duly authorized directors of Energy Improvement Corporation since the dates set forth next to their names:

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Andy Chintz 7/15/11 Olivia Farr 7/15/11
Kathryn Hoenig 9/07/11 \*\*\*vacant\*\*\* 7/15/11
Lee Roberts 7/15/11

BY-LAW AMENDMENTS

On a motion by Lee Roberts and seconded by Susanne Donnelly, it was unanimously agreed to adopt the amendments to the By-Laws of Energy Improvement Corporation of which we have before us and which were included in the notice of this meeting. So be it,

RESOLVED that the amended By-Laws of the Energy Improvement Corporation are adopted of which a copy is attached.

On a motion by Lee Roberts and seconded by Susanne Donnelly there being no other business, the meeting was adjourned at 1:10pm.



**BY-LAWS  
OF  
ENERGY IMPROVEMENT CORPORATION**

**Article 1  
General**

1.1 *Name of the Not-for-Profit Corporation.* The name of the corporation shall be Energy Improvement Corporation, a New York not-for-profit corporation (herein called the “Corporation”).

1.2 *Principal Office.* The principal office of the Corporation shall be located at such place as the Board of Directors may designate in the Town of Bedford, New York or other place within the bounds of a member municipality. The Corporation may also maintain additional offices and places of business at such locations as the Board of Directors may designate. Meetings of the Board of Directors of the Corporation need not be held at the offices of the Corporation and may be held at such places within the State of New York (the “State”) as the Board of Directors may designate.

1.3 *Conflicting Provisions.* In the case of any conflict between the Certificate of Incorporation of the Corporation (the “Certificate”) and these By-laws, the Certificate shall control.

1.4 *Corporate Seal.* The Corporation may have a seal in a form approved by the Board of Directors.

1.5 *Fiscal Year.* The fiscal year of the Corporation shall begin on the 1<sup>st</sup> day of January and end on the 31<sup>st</sup> day of December of each year, or as otherwise established by resolution of the Board of Directors.

1.6 *Checks, Drafts and Notes.* All checks, drafts, orders for the payment of money, notes or other evidences of indebtedness issued in the name or on behalf of the Corporation shall be signed by such officer(s) or agent(s) of the Corporation from time to time designated, and in such manner as from time to time determined by, the Board of Directors.

1.7 *Notices.* Any notices required to be given pursuant to these By-laws shall be given personally or by first class mail, which shall be deemed given when deposited in the United States mail, with sufficient first-class postage prepaid thereon and directed to the intended recipient at his, her or its address as it appears in the records of the Corporation, provided, however, that notice of a meeting of the Board of Directors as may be required by Sections 3.2 or 3.10(d) of these By-Laws may be given by e-mail or facsimile directed to an e-mail address or facsimile number as it appears in the records of the Corporation at the time such notice is given.

1.8 *Purpose.* The Corporation shall have such purpose and powers as are set forth in the Certificate.

1.9 *Status.* It is intended that the Corporation shall have the status of a “constituted authority,” as described in Internal Revenue Service Revenue Rulings 57-187 and 60-248, and an “instrumentality,” within the meaning of Internal Revenue Service Revenue Ruling 57-128, of the members of the Corporation for federal income tax purposes. These By-laws shall be construed, and all authority and activities of the Corporation shall be limited, accordingly. Notwithstanding any other provision of these By-laws, the

Corporation shall not directly or indirectly carry on any activity that would prevent it from claiming and maintaining its status as a “constituted authority” and an “instrumentality” of its members for federal income tax purposes.

## **Article 2** **Membership**

2.1 *Membership.* All members of the Corporation shall be municipalities of the State that have authorized the Corporation to implement and carry out a Sustainable Energy Loan program to finance the installation of Renewable Energy Systems and Energy Efficiency Improvements on properties located within the member municipality (hereinafter referred to as “Projects”), as such terms are defined under Article 5-L of the New York State General Municipal Law. Members shall elect a representative to exercise all of the powers, rights and privileges of the member, provided such representative shall be either the chief executive officer (including mayor, supervisor, manager or administrator) or the chief fiscal officer of the municipality.

2.2 *Classification of Members.* There shall be one class of members; namely, those municipalities that have authorized the Corporation to finance “Projects” on properties located within their municipalities.

2.3 *Admission of Members.* Any municipality which authorizes its participation in the financing of a “Project” through the Corporation may apply in writing through its chief executive officer (including mayor, supervisor, manager or administrator) or chief fiscal officer to the Corporation for membership. The Directors shall determine, from time to time, criteria for admitting new members. Membership in the Corporation shall be affected and evidenced by a fully executed agreement made by and between the Corporation and such member municipality.

2.4 *Termination of Membership.* Membership in the Corporation shall be terminated in the manner provided under Section 601(e) of the New York State Not-For-Profit Corporation Law, provided, however, that: (1) in no case shall the membership of the Town of Bedford, New York, be terminated within ten (10) years of the establishment of the Corporation on July 15, 2011; and (2) no member may withdraw from the Corporation unless and until the earlier of the following: (i) the Corporation winds up business and ceases to exist, or (ii) the member is not legally required to levy an assessment or charge to pay the principal and interest, and premium, if any, on debt authorized and issued by the Corporation. Notice of withdrawal shall be given upon 90 days notice in writing addressed to an officer of the Corporation. All fees, revenues, debts, dues and moneys payable to the Corporation by a member shall be paid in full before withdrawal.

2.5 *Dues and Fees.* Dues and fees for members shall be in such amounts as shall be determined by the Board of Directors from time to time.

2.6 *Annual Meeting and Special Meetings.* An annual meeting of the members of the Corporation for the election of Directors, for the consideration of reports, and such other business as may be brought before the members shall be held on or about March 31 in each year as shall be specified by the Board of Directors. Meetings of members may be held at any location within the State at the designation of the Board of Directors. Special meetings of the members may be called by the Board of Directors. Business conducted at a special meeting will be limited to the purpose set forth in the notice of special meeting. Whenever a vote of the members is required, such action may be taken without a meeting on written consent, setting forth the action so taken, signed by all of the members entitled to vote thereon.

2.7 *Notice of Meetings.* Written notice of a meeting of the members shall be given to each member entitled to vote at such meeting in the manner provided in section 1.7 of these By-laws not less than ten (10) nor more than fifty (50) days prior to such meeting. Such notice shall state the place, date and hour of the meeting and, unless it is an annual meeting, indicate that it is being issued by or at the direction of the person or persons calling the meeting. Notice of a special meeting of members shall also state the purpose or purposes for which the meeting is called. Any member may waive notice before or after such meeting by submitting a signed waiver of notice, in person or by proxy, or by attending the meeting, in person or by proxy, without protesting the lack of notice of such meeting. Any notice of an annual or special meeting of the members shall comply with the public notice requirements of the New York State Open Meetings Law.

2.8 *Quorum; Manner of Action; Proxy.* A quorum shall be a majority of the total number of members. Except for the election of directors, where a quorum exists, the members may take such action by the affirmative vote of the majority of the members of the Corporation present. Directors shall be elected by a plurality of the votes cast by the members. A representative elected by a member in accordance with Section 2.1 of these By-laws may, with the approval of such member, authorize another person to act by proxy.

2.9 *Excess Revenues of the Corporation.* To the extent permitted by law, revenues not required for any purpose or required to be appropriated or pledged to any fund of the Corporation may, by resolution of the Directors at an annual meeting of the Directors of the Corporation, be allocated and distributed to members of the Corporation for such members' energy efficiency and renewable energy purposes pursuant to guidelines established by the Directors for such allocation and distribution.

### **Article 3** **Board of Directors**

3.1 *General Powers.* The property, business and affairs of the Corporation shall be managed by its Board of Directors, and the Board of Directors shall have all of the powers relating thereto as may be provided from time to time by applicable law, the Certificate and these By-laws, including, without limitation, the power to enact rules for the conduct of official business by the Board of Directors and the governance of the Corporation, consistent with the Certificate, the By-laws and all applicable laws.

3.2 *Annual Meeting.* An annual meeting of the Board of Directors of the Corporation shall be held once each calendar year, at such date, time and location as the Board of Directors shall determine. The purpose of the annual meeting shall be the election of a Chair of the Board of Directors and officers of the Corporation and the transaction of such other business as may come before the meeting. Notice of the date, time and location of each annual meeting of the Board of Directors shall be given to each Director at least five (5) days before the day on which the meeting is to be held and given in the manner provided in section 1.7 of these By-laws. Notice of any annual meeting may be waived in writing by a Director, either before or after such meeting, or by attending the annual meeting without protesting the lack of notice of such meeting. Neither the business to be transacted at, nor the purpose of, any annual meeting need be specified in the notice or waiver of notice of such meeting. Notice of an annual meeting shall comply with the public notice requirements of the New York State Open Meetings Law.

3.3 *Number, Election, Term and Qualifications...*

3.3.1 *Number of Directors.*

There shall initially be eleven (11) Directors of the Corporation. Upon the annual meeting of the members in the year of 2014, the number of Directors of the Corporation shall be reduced to nine (9) Directors. The number of Directors may be increased by amendment of these By-laws in accordance with Section 6.1 of these By-laws.

### *3.3.2 Election of Directors.*

At each annual meeting of the members of the Corporation at which a quorum is present, Directors, other than the Ex Officio Director (as defined under Section 3.4 of these By-laws), shall be elected by a plurality vote of the members.

### *3.3.3 Term of Office.*

Directors shall be elected for a term of three (3) years, provided, however, with the exception of the initial term of the Ex Officio Director (as defined under Section 3.4 of these By-laws) who shall serve a ten (10) year term, the initial Directors of the Corporation shall serve for the following terms: three (3) Directors shall serve a three (3) year term, three (3) Directors shall serve a two (2) year term, and two (2) Directors shall serve a one (1) year term. Directors shall hold office until the annual meeting of the members of the year in which their terms expire and until their successors shall have been elected and qualified, or until their death, resignation, disqualification or removal. Two (2) additional Directors shall serve until the annual meeting of the members in 2014.

### *3.3.4 Qualifications.*

3.3.4.1 Each Director must be a resident of the State and of a municipality that is a member of the Corporation and over eighteen (18) years of age.

3.3.4.2 One Director shall be the chief executive officer (including supervisor or town manager/administrator) of the Town of Bedford (as provided under Section 3.4 of these By-laws), provided, however, upon expiration of the term of the Ex Officio Director (as defined under Section 3.4 of these By-laws), the seat formerly held by such Ex Officio Director shall be filled at large by the chief executive officer (including mayor, supervisor, manager or administrator) or chief fiscal officer of a member of the Corporation. Three (3) Directors shall be the chief executive officers (including mayor, supervisor, manager or administrator) or chief fiscal officers of members of the Corporation which are also members of the Northern Westchester Energy Action Consortium. To the extent practicable, three (3) Directors shall be the chief executive officers (including mayor, supervisor, manager or administrator) or chief fiscal officers of members of the Corporation with the largest outstanding financings as of the end of the fiscal year immediately preceding the meeting at which they are elected, provided that if the Corporation has not made three (3) financings, that such Directors shall be at large. All remaining seats on the Board of Directors shall be held at large by the chief executive officers (including mayor, supervisor, manager or administrator) or chief fiscal officers of members of the Corporation.

3.4 *Ex Officio Director.* The chief executive officer of the Town of Bedford, by virtue of his or her office, shall serve as a Director of the Corporation for the initial ten (10) year term provided for under Section 3.3.3 of these By-laws. The Ex Officio Director shall serve on the Board of Directors with all of the same rights, duties and responsibilities of the other Directors of the Corporation.

3.5 *Nominations.* The Directors shall appoint a nominating committee within four (4) months of the annual meeting of the members to submit names of chief executive officers or chief fiscal officers of members of the Corporation to serve as Directors of the Corporation. The nominating committee shall select its candidates and announce such selection to the members of the Corporation at least thirty (30) days prior to the annual meeting of the members.

3.6 *Voting -* All Directors shall be entitled to one vote. On matters to be voted by the Directors relating to the Corporation's purpose to finance, approve, call-in and liquidate and service financings for "Projects", each Director shall be entitled to one additional vote for each \$5 million in outstanding financing from the Corporation to property owners located in the member of the Corporation of which the Director is the chief executive officer or chief fiscal officer at the time of the meeting to which the vote pertains.

3.7 *Resignations.* Any Director may resign at any time by giving written notice to the Chairman of the Corporation, or, if the Chairman resigns, to the Secretary of the Corporation. Such resignation shall take effect when the notice is delivered unless the notice specifies a future effective date, and the acceptance of any such resignation shall not be necessary to make it effective.

3.8 *Removal.* Any or all of the Directors may be removed for cause by the affirmative vote of no less than two thirds of all the Directors. Written notice of a meeting at which the removal of a Director will be considered shall be given to all Directors in accordance with section 1.7 of these By-laws. Such notice shall state that a purpose of the meeting is to vote upon the removal of one or more Directors named in the notice, and only the named Director or Directors may be removed at such meeting. The members of the Corporation may remove any Director with or without cause by an affirmative vote of no less than two thirds of all members at any regular or special meeting called pursuant to Article 2 of these By-laws.

3.9 *Vacancies.* Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the "entire Board of Directors" (as such term is defined in Section 3.11 of these By-laws) at any meeting at which a quorum is present, and any Director so chosen shall hold office until the next annual meeting of the members and until a successor is elected and qualified. Any newly created Directorship shall be deemed a vacancy. When one or more Directors resigns from the Board of Directors and such resignation is effective at a future time, a majority of the "entire Board of Directors" (as such term is defined in Section 3.11 of these By-laws) at any meeting at which a quorum is present, which may include those who have so resigned, may fill such vacancy, the vote on the vacancy to take effect when such resignation becomes effective.

### 3.10 *Regular and Special Meetings.*

(a) All meetings of the Board of Directors, whether regular, annual or special, may be held by means of conference telephone or other communications equipment by which all persons participating in the meeting can hear and speak to each other at the same time, and participation at such meeting shall constitute presence in person at the meeting.

(b) Regular meetings of the Board of Directors shall be held at least quarterly and may be held upon notice in the manner provided in section 3.10(d) of these By-laws at such time and place as is determined from time to time by the Board of Directors.

(c) Special meetings of the Board of Directors may be held at any time. A special meeting of the Board of Directors shall be called by the Executive Director or Secretary whenever either is directed to do so by the Board. In addition, a special meeting may be called at any time by the Executive Director. Notice of such special meeting shall be provided to each Director in accordance with section 3.10(d) of these By-laws. Any special meeting of the Board of Directors may be held at such place and at such time as shall be specified or fixed in the call of such meeting and in the notice thereof.

(d) Notice of each regular or special meeting of the Board of Directors shall be delivered to each Director at least five (5) days before the day on which the regular or special meeting is to be held and given in the manner provided in section 1.7 of these By-laws. Notice of any meeting may be waived in writing by a Director, either before or after such meeting, or by attending the meeting without protesting the lack of notice of such meeting. Except as otherwise required by applicable law, the Certificate or these By-laws, neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting. Notice of a regular or special meeting of the Board of Directors shall also comply with the public notice requirements of the New York State Open Meetings Law.

*3.11 Quorum; Board Action.* A majority of the entire Board of Directors shall constitute a quorum for the transaction of business at any annual, regular or special meeting of the Board of Directors. The vote of a majority of the entire Board of Directors shall be required for the Board to take action except where otherwise provided by law. For purposes of these By-laws, the “entire Board of Directors” shall be construed to mean the total number which such Board would have were there no vacancies and were none of the members of the Board disqualified from acting.

*3.12 Action Without Meeting.* Any action required to be taken, or which may be taken, at any regular or special meeting of the Board of Directors or any committee thereof may be taken without a meeting if all Directors consent in writing to the adoption of a resolution authorizing the action. The resolution and written consents thereto shall be filed with the minutes of the proceedings of the Board.

*3.13 Compensation.* No Director shall receive compensation for any services he or she may render to the Corporation; provided, that a Director may be reimbursed for expenses actually incurred in the performance of his or her duties so long as such reimbursement is approved by, or is in accordance with policies and procedures approved by, the Board of Directors; and provided, further, that any Director who is also an employee of the Corporation, or the provider of goods or services to the Corporation, may be paid compensation for services as an employee, or for such goods or services, as is approved by the Board of Directors.

*3.14 Chair.* The Chair shall set the agenda for, and preside over, all meetings of the Board of Directors and is specifically authorized to do the following:

1. Take all steps necessary and proper in the Chair's judgment to carry out decisions and policies of the Board of Directors.
2. Take all steps necessary and proper in the Chair's judgment to carry out decisions and powers and duties the Board of Directors has delegated to the Chair.
3. Delegate to any officer or employee such of the Chair's duties, powers and functions as the Chair may deem necessary or appropriate; provided, however, that the Chair may revoke any such delegation at any time.

*3.15 Executive Committees; Powers and Duties.* The Board of Directors may, by resolution or resolutions passed by the Board of Directors, designate one or more executive committees to consist of three (3) or more Directors of the Corporation. Each such executive committee shall serve at the pleasure of the Board of Directors. The Board of Directors may designate one or more Directors as alternate members of such committee, who may replace any absent Director at any meeting of such committee. Members of an executive committee shall hold office for such period as may be fixed by a resolution passed by the Board of Directors, subject, however, to removal at any time by the vote of the Board of Directors. Except as otherwise provided by law, any executive committee, to the extent provided in the resolution or resolutions creating such executive committee, shall have all the authority of the Board of Directors except that no such executive committee shall have authority as to the following matters: (a) the submission to members of any action requiring members' approval; (b) the filling of vacancies in the Board of Directors or in any committee; (c) the fixing of compensation, if any, of the Directors for serving on the Board of Directors or on any committee; (d) the amendment or repeal of these By-laws or the adoption of new By-laws; (e) the amendment or repeal of any resolution of the Board of Directors which by its terms shall not be so amendable or repealable; (e) the authorization, approval or funding of any financing of the Corporation; or (f) any other matter which by law may not be delegable to an executive committee.

*3.16 Special Committees of Directors; Powers.* The Board of Directors may, by resolution or resolutions passed by the Board of Directors, designate one or more special committees to consist of two (2) or more Directors of the Corporation. Each such special committee shall serve at the pleasure of the Board of Directors. Members of any special committee shall be selected by the vote of the Board of Directors. Members of a special committee shall hold office for such period as may be fixed by resolution passed by the Board of Directors, subject, however, to removal at any time by the vote of the Board of Directors. Except as otherwise provided by law, any special committee shall have only the powers specifically delegated to such committee by the Board of Directors.

*3.17 Audit Committee.* At the first meeting of the Board of Directors following the annual meeting of the members of the Corporation, the Board of Directors shall appoint an audit committee. The audit committee shall inspect and review the funds and accounts of the Corporation and the application of proceeds of all financings of the Corporation during the fiscal year of the Corporation in which the members of the audit committee are appointed. The audit committee shall report on the financial condition of the Corporation and the application of proceeds of outstanding financings of the Corporation at the next succeeding annual meeting of the Corporation. In addition, the audit committee shall perform all duties required by the New York State Public Authorities Law. The audit committee shall be comprised of at least three (3) independent Directors who shall constitute a majority of the committee, provided, however, that in the event the Board has less than three (3) independent Directors, the Board may appoint non-independent Directors to the audit committee, provided that the independent Directors must constitute a majority of the members of the audit committee. In addition, to the extent permitted by law, the Board may appoint to the committee a representative of a member of the Corporation whose municipality does not have representation on the Board of Directors, and/or a representative of a non-member municipality. The Chair of the audit committee shall set the agenda for and preside over all meetings of the committee and is specifically authorized to lead, develop and establish the Charter of the Committee.

*3.18 Advisory Committees; Powers.* The Board of Directors may, by resolution or resolutions passed by the Board of Directors, designate one or more advisory committees to consist of persons associated with members of the Corporation knowledgeable and interested in the purposes of the Corporation and who may or may not be members of the Board of Directors. Such advisory committee may provide research, reports and general advice to the Board of Directors for conducting the purposes of the Corporation. Each such advisory committee shall serve at the pleasure of the Board of Directors. Members of an advisory committee



shall hold office for such period as may be fixed by resolution passed by the Board of Directors, subject, however, to removal at any time by the Board of Directors. Except as otherwise provided by law, any advisory committee shall perform only such assignments specifically designated by the Board of Directors, and shall exercise no powers of the Board of Directors.

*3.19 – Finance Committee:* The Board of Directors, by resolution or resolutions passed by the Board of Directors, shall establish a Finance Committee to consist of no less than three (3) independent Directors of the Corporation as defined by Section 2825(2) of the New York State Public Authorities Law, as amended. In the event that the Board of Directors has less than three (3) independent members, it may appoint non-independent members to the Finance Committee, provided that the independent members must constitute a majority of the members of the committee. The Finance Committee shall serve at the pleasure of the Board of Directors. Members of the Finance committee shall be selected by the vote of the Board of Directors and shall hold office for such period as may be fixed by resolution passed by the Board of Directors, subject, however, to removal at any time by the vote of the Board of Directors. Except as otherwise provided by law, the Finance Committee shall have only the powers specifically delegated to such committee by the Board of Directors inclusive of reviewing proposals for the issuance of debt by the Corporation and its subsidiaries and making recommendations. The Chair of the Finance Committee shall set the agenda for, and preside over, all meetings of the committee and is specifically authorized to lead, develop and establish the Charter of the Committee.

*3.20 – Governance Committee:* The Board of Directors, by resolution or resolutions passed by the Board of Directors, shall establish a Governance Committee to consist of no less than three (3) independent Directors of the Corporation. In the event that the Board of Directors has less than three (3) independent members, it may appoint non-independent members to the Governance Committee, provided that independent members constitute a majority. The Governance Committee shall serve at the pleasure of the Board of Directors. Members of the Governance committee shall be selected and shall hold office for such period as may be fixed by resolution passed by the Board of Directors, subject, however, to removal at any time by the vote of the Board of Directors. Except as otherwise provided by law, the Governance Committee shall have only the powers specifically delegated to the committee by the Board of Directors including keeping the Board informed of current best governance practices, reviewing corporate governance trends, recommending updates to the Corporation’s corporate governance principles, advising appointing authorities on the skills and experiences required of potential Board members, examining ethical and conflict of interest issues, performing board self-evaluations and recommending by-laws. The Chair of the Governance Committee shall set the agenda for, and preside over, all meetings of the committee and is specifically authorized to lead, develop and establish the Charter of the Committee.

#### Article 4

#### Officers and Employees

*4.1 Officers and Employees.* The Board of Directors, in its discretion, may elect officers and hire administrative staff. In the event that the Directors do so elect, the officers of the Corporation shall be: Executive Director, one (1) or more Vice Presidents (the number thereof to be determined by the Board of Directors from time to time), a Treasurer, a Secretary, and such Assistant Treasurers, Assistant Secretaries and other officers as the Board of Directors may authorize from time to time. Any two (2) or more offices may be held by the same person, provided that the offices of Executive Director and Secretary may not be held by the same person. The Executive Director, all Vice Presidents, the Treasurer and the Secretary may be members of the Board of Directors if they meet the other qualifications for Board membership under Section 3.3.4 of these By-laws and are elected in accordance with Section 3.3.2 of these By-laws...

4.2 *Election and Term of Office.* The officers of the Corporation shall be elected by the Directors of the Corporation and will hold office until the next annual meeting of the Board of Directors and until their successors shall have been duly elected and qualified or until their earlier death, resignation, disqualification or removal. Vacancies may be filled, and new offices may be created, at any regular or special meeting of the Directors of the Corporation. Election of an officer shall not create contract rights. All employees of the Corporation are at will unless otherwise provided by resolution or resolutions of the Board of Directors.

4.3 *Removal.* Any of the officers or employees of the Corporation may be removed by the Board of Directors at any time with or without cause.

4.4 *Resignation.* Any officer or employee may resign at any time by giving written notice to the Board of Directors or to the Executive Director of the Corporation. Any such resignation shall take effect at the time specified therein (or immediately if no such time is specified) and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.5 *Chair.* The Chair shall set the agenda for, and preside over, all meetings of the Board of Directors and is specifically authorized to do the following:

1. Take all steps necessary and proper in the Chair's judgment to carry out decisions and policies of the Board of Directors.
2. Take all steps necessary and proper in the Chair's judgment to carry out decisions and powers and duties the Board of Directors has delegated to the Chair.
3. Delegate to any officer or employee such of the Chair's duties, powers and functions as the Chair may deem necessary or appropriate; provided, however, that the Chair may revoke any such delegation at any time.

4.6 *Executive Director.* The Executive Director shall have general charge of the business and affairs of the Corporation, shall hire and manage staff and operate the day-to-day affairs of the Corporation, and may delegate executive assignments to the other officers of the Corporation; shall see that the resolutions and directives of the Board of Directors are carried into effect (except in those instances in which the responsibility therefore is assigned to some other person by the Board of Directors); and, in general, shall discharge all duties incident to the office of Executive Director and such other duties as may be prescribed by the Board of Directors from time to time. The Executive Director may execute, for and in the name of the Corporation, all contracts, agreements, deeds, mortgages, bonds or other instruments which the Board of Directors has authorized to be executed. If at any time there is no Treasurer, the Executive Director shall perform the duties incident to the office of the Treasurer.

4.7 *Vice President.* The Vice President (or in the event there shall be more than one, the Vice Presidents in the order designated by the Board of Directors) shall have all the duties of the Executive Director in the absence or incapacity of the Executive Director and shall perform all the duties incident to the office of Vice President and such other duties as may be assigned from time to time by the Executive Director or by the Board of Directors.

4.8 *Treasurer.* The Treasurer shall be the principal financial and accounting officer of the Corporation and shall have charge of and be responsible for the maintenance of adequate books of account of the Corporation; shall have charge and custody of all funds and securities of the Corporation and be responsible therefore and for the receipt and disbursement thereof; and shall perform all the duties incident to

the office of Treasurer and such other duties as may be assigned from time to time by the Executive Director or by the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of the duties of the office of Treasurer in such sum and with such surety or sureties as the Board of Directors shall determine.

4.9 *Secretary.* The Secretary of the Corporation shall act as the secretary of the Board of Directors; shall see that all notices are duly given in accordance with the provisions of these By-laws or as required by law; shall be custodian of the corporate records of the Corporation; shall keep a register of the post office address (and facsimile number/email address, if provided) of each Director as furnished to the Secretary by such Directors; and shall perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Executive Director or by the Board of Directors.

4.10 *Assistant Treasurers and Assistant Secretaries.* The Assistant Treasurers and Assistant Secretaries, if any, shall perform such duties as may from time to time be assigned to them by the Treasurer or the Secretary, respectively, or by the Executive Director or the Board of Directors. If required by the Board of Directors, the Assistant Treasurers shall give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine.

4.11 *Other Officers.* The other officers of the Corporation, if any, shall perform such other duties as may from time to time be assigned to them by the Board of Directors, Chair or the Executive Director.

4.12 *Compensation.* No officer shall receive compensation for any services he may render to the Corporation; provided, that officers may be reimbursed for expenses actually incurred in the performance of their duties provided that such reimbursement is approved by, or is in accordance with policies and procedures approved by, the Board of Directors; and provided, further, that any officer who is also an employee of the Corporation, or the provider of goods or services to the Corporation, may be paid compensation for services as an employee, or for such goods or services, in such amount as is approved by the Board of Directors.

## **Article 5**

### **Miscellaneous Provisions**

5.1 *Contracts.* The Board of Directors may authorize any one or more officers or agents of the Corporation, in addition to the officers otherwise authorized by these By-laws, to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific circumstances as authorized by the Board of Directors.

5.2 *Deposits.* All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may designate.

5.3 *Gifts.* The Board of Directors may accept on behalf of the Corporation any contribution, donation, gift, bequest or devise, whether in cash or otherwise, for the general purposes or any special purpose of the Corporation.

5.4 *Books and Records.* The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board of Directors.

5.5 *Interested Directors and Officers.*

(a) No contract or other transaction between the Corporation and one or more of its Directors or officers, or between the Corporation and any other corporation, firm, association or other entity in which one or more of the Corporation's Directors or officers are Directors or officers, or have a substantial financial interest, shall be either void or voidable for this reason alone, or solely because such Director or Directors or officer or officers were present at the meeting of the Board of Directors, or of a committee thereof, where such contract or transaction was authorized, or that his or their votes were counted for such purpose, if: (i) the material facts as to such Director's or officer's interest in such contract or transaction and as to any such common directorship, officership or financial interest are disclosed in good faith or are known to the Board of Directors or committee, and the Board of Directors or committee authorizes such contract or transaction by a vote sufficient for such purpose without counting the vote or votes of such interested Director or officer; or (ii) the material facts as to such Director's or officer's interest in such contract or transaction and as to any such common directorship, officership or financial interest are disclosed in good faith or known to the members entitled to vote thereon, if any, and such contract or transaction is authorized by vote of such members.

(b) Common or interested Directors may be counted in determining the presence of quorum at a meeting of the Board of Directors or a committee thereof which authorizes such contract or transaction. A Director may be an elected or appointed official of a municipality which is a member of the Corporation subject to limitations in the Public Officers Law. Any duality or interest shall be reported to appropriate New York State agencies as may be required by law.

## **Article 6** **Amendments**

6.1 *Amendments.* These By-laws may be altered, amended, restated, repealed or otherwise modified, and new and other By-laws may be adopted in lieu thereof, only by a vote of the majority of the members of the Corporation in good standing and qualified to vote. Notice of any proposed amendment to these By-laws shall be given to each member in accordance with section 2.7 of these By-laws. Notwithstanding anything to the contrary in these By-laws or the Certificate of Incorporation, the Certificate of Incorporation and these By-laws may not be amended if such amendment would be inconsistent with the status of a "constituted authority" and an "instrumentality."

## **Article 7** **Indemnification**

### 7.1 *Indemnification.*

(a) The Corporation shall, to the fullest extent it has the power to do so under the New York Not-for-Profit Corporation Law (or any successor thereto) (the "Act") or under applicable law, indemnify and defend any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, including, without limitation, any action or suit by or in the right of the Corporation, by reason of the fact that he is or was a Director, officer, employee, volunteer or agent of the Corporation or is or was serving at the request of the Corporation as a member, Director, officer, employee, volunteer, incorporator or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against expenses, including, without limitation, attorneys' fees and disbursements, and against judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted, in good faith and in a manner and for a purpose he reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal action or proceeding, had

no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of *nolo contendere* or its equivalent shall not, by itself, create a presumption that the person did not act in good faith and in a manner and for a purpose he reasonably believed to be in, or not opposed to, the best interests of the Corporation or, with respect to any criminal action or proceeding, had reasonable cause to believe such conduct was unlawful. Any indemnification under this Section 7.1 shall be made in accordance with the procedures set forth in the Act or, in the absence of any such specified procedures, as determined by the Board of Directors.

(b) The indemnification provided by this Section 7.1 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled, whether under applicable law, agreement or otherwise, and shall continue as to any person who has ceased to be a Director, officer, employee, incorporator, volunteer or agent of the Corporation, and shall inure to the benefit of the heirs and executors of any such person.

(c) The Corporation may, at the discretion of the Board of Directors, purchase and maintain insurance, or obtain other security or indemnity, on behalf of any person who is or was a Director, officer, employee, incorporator, volunteer or agent of the Corporation, or who is or was serving at the request of the Corporation as a member, Director, officer, employee, incorporator, volunteer or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of this Section 7.1.

EFFECTIVE DATE: 2/4/13