

THE TOWN OF CLARENCE, ERIE COUNTY, INDUSTRIAL DEVELOPMENT AGENCY
BY-LAWS

(History: Adopted December 21, 2006; Adopted as Amended April 17, 2008)

ARTICLE I-THE AGENCY

Section 1. Name. The name of the Agency shall be the “Town of Clarence, Erie County, 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 One Town Place, Clarence, New York, but the Agency may have other offices at such other places as the Agency may from time to time designate by resolution.

ARTICLE II-OFFICERS

Section 1. Officers. The officers of the Agency shall be a Chairman, a Vice-Chairman, a Secretary, Treasurer and an Assistant Secretary, a Chief Executive Office and a Chief Financial Officer. The officers of the Agency shall be elected by the members of the Agency to their respective positions and shall enjoy a term of office of one (1) year. The Chief Executive Officer and the Chief Financial Officer cannot be members of the Agency.

Section 2. Chairman. The Chairman 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 information as he shall deem pertinent concerning the business, affairs and policies of the Agency, at each meeting.

Section 3. Vice-Chairman. The Vice-Chairman shall be a member of the Agency and 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 performs the duties of the Chairman until such time as the Agency shall appoint 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 meeting of the Agency, shall keep a record of all votes thereat. He shall record the proceedings of the Agency in a journal of proceedings to be kept for such purposes. 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 such seal to all contracts and other instruments authorized by the Agency to be executed.

Section 5. Treasurer. The Treasurer shall be a member of the Agency and shall exercise supervision and control over the Chief Financial Officer of the Agency. He shall receive and review financial reports prepared by the Chief Financial Officer and shall report to the board on such

measures. Except as otherwise provided by resolution of the Agency, the Treasurer shall sign all instruments of indebtedness, orders and checks for the payment of money by the Agency pursuant to the direction of the Agency. If the Treasurer is not available, the Vice Chairman of the Agency shall be authorized to sign in his or her absence. Except as otherwise authorized by resolution of the Agency, all such instruments, orders and checks in the amount of \$7,500 and above must be countersigned by the Chairman. If the Chairman is not available, the Secretary of the Agency shall be authorized to sign in his or her absence.

Section 6. Assistant Secretary. The Assistant Secretary, who shall be legal counsel for the Agency, shall perform the duties of the 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 appoint a new Secretary.

Section 7 Chief Executive Officer. The Agency shall appoint a Chief Executive Officer (CEO) who may not be a member of the Agency. The Chief Executive Officer shall be responsible for the discharge of the executive and administrative functions of the Agency.

Section 8. 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. - 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.

Section 9. Additional Duties. The officers of the Agency shall perform such other duties and functions as may from time to time be required by the agency, by the by-laws or by its rules and regulations.

Section 10 Appointment of Officers. All officers of the Agency shall be appointed at the annual meeting of the Agency. Officers shall hold office for one year or until the successors are appointed. The Assistant Secretary and the Recording Secretary need not be members of the Agency and the Chief Executive Officer and the Chief Financial Officer may not be members of the Agency. If the term of an Agency member shall terminate, his term of office as an officer shall also terminate.

Section 11 Vacancies. Should any office become vacant, the Agency, shall appoint a successor at the next regular meeting, and such appointment shall be for the unexpired term of said office.

Section 12. Members of the Agency. The Agency shall consist of seven members. The term of office of each member of the Agency shall be established by the Town Board of Clarence and each member shall continue to hold office until his successor is appointed and has qualified.

ARTICLE III-COMMITTEES

Section 1. Executive Committee. There shall be an Executive Committee which shall consist of the Chairman, Vice Chairman and Treasurer. The CEO and CFO shall each be non-voting members of the Executive Committee. The Executive Committee shall function as a steering committee and shall advise and make recommendations to the membership of the Agency. The Executive Committee shall also function as a Nominating Committee and shall recommend members for offices of the Agency for the annual election of officers.

Section 2. Governance Committee. There shall be a Governance Committee appointed by the Chairman with the consent of the entire membership of the Agency. The Governance Committee shall consist of the Chairman and two other members of the Agency and must be “independent members” of the Agency within the meaning of Section 2825 of the New York Public Authorities Law. The Governance Committee shall keep the Board informed of current best governance practices, review corporate governance trends, suggest updates to the Agency’s corporate governance principles and shall advise those responsible for appointing members to the Board of the skills and experience required of potential Board members.

Section 3. Finance & Audit Committee. There shall be Finance and Audit Committee consisting of the Treasurer and two additional “independent members” appointed by the Chairperson, with the consent of the entire membership of the Agency, which members shall, to the extent practicable, be familiar with corporate financial and accounting practices. The Finance & Audit Committee shall provide assistance to the members of the Agency in fulfilling their fiduciary responsibilities relating to accounting, reporting and regulatory compliance practices. The Finance & Audit Committee shall approve the budget for submission to the Board for approval, review and approve transfers of moneys under the budget and make recommendations to the Board as to other financial matters. The Finance & Audit Committee shall recommend the hiring of a certified independent accounting firm and shall provide direct oversight over the performance of the independent audit performed by the accounting firm hired for such purposes and receive and review reports from such accounting firm. The Finance & Audit Committee shall also ensure that the proper submissions are made to the governmental authorities having audit authority and fiscal oversight of the Agency.

The Finance & Audit Committee shall periodically report to the members of the Agency, at least annually, the findings of the independent accountants and auditors. Such reports shall highlight any weaknesses in the manner in which the Agency is operating and suggest actions that should be taken to correct such weaknesses.

ARTICLE IV-MEETINGS

Section 1. Annual Meeting. The annual meeting of the Agency shall be held on the third Wednesday of January at 8:00 o’clock a.m. at the regular meeting place of the Agency, or at such other place and/or time as the Agency may designate.

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

Section 3. Special Meeting. The Chairman or Vice Chairman of the Agency may when he 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 designating 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 members failing to receive a proper notice. At such special meeting no business shall be considered other than designated in the call, but if all members of the Agency are present at a special meeting, with or without notice thereof, and are all agreeable thereto, any and all business may be transacted at such special meeting.

Section 4. Executive Sessions. When determined by the Agency that any matter pending before it is confidential in nature, it may, upon its own motion, establish an executive sessions and exclude non-members from such session.

Section 5. Quorum. At all meetings of the Agency, a majority 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 6. Order of Business. At the regular meetings of the Agency, the following shall be the order of business:

1. Call meeting to order
2. Roll Call
3. Reading and approval of the minutes of the previous meeting
4. Bills and communications
5. Report of the Treasurer
6. Reports of Committees
7. New Business
8. Unfinished Business
9. Adjournment

All Resolutions shall be in writing and shall be recorded in the journal of the proceedings of the Agency.

Section 7. Manner of Voting. The voting on all questions coming before the Agency shall be by roll call, and the yeas and nays shall be entered on the minutes of such meeting, except in the case of appointments when the vote may be by ballot. Any action of the Agency shall be binding, upon determination by a majority of the entire membership of the Agency.

Section 8. Public Hearings. The Chairman or Vice Chairman shall be authorized to call public hearings of the Agency as required by the General Municipal Law of the State of New York and the Internal Revenue Code and to specify the time and place of such public hearings. Public

hearings shall customarily be held prior to regularly scheduled meetings or special meetings of the Agency, but may be held at other times in the discretion of the Chairman or Vice Chairman as may be required in the best interest of the Agency. Minutes shall be taken of the public hearing and presented to the Board of Directors of the Town of Clarence, Erie County, Industrial Development Agency.

ARTICLE IV-AMENDMENTS

Section 9. Amendments of Bylaws. The bylaws of the Agency may be amended with the approval of a majority of all of the members of the Agency at a regular or special meeting called for the purpose; but no such amendment shall be adopted unless at least thirty days written notice thereof has been previously given to all members of the Agency and to the Town Board of Clarence.

ARTICLE V-POLICIES 7 PROCEDURES

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

Section 2. Site of Agency Projects.

1. The Agency shall not approve any project to be located on a site of within an area which does not conform to or has not been granted a variance from the zoning laws of the Town of Clarence. The Agency may, however, approve a project contingent upon receipt of approval or re-zoning or the granting of a variance by the Town of Clarence, but in such case no site work or construction shall commence until receipt of the approval of the re-zoning or variance as the case may be.

2. The Agency shall not approve any project which shall be in violation of the anti-pollution laws of the United States, State of New York, County of Erie or Town of Clarence.

3. 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 of the County of Erie or local laws or ordinances of the Town of Clarence.

Section 4 Payments in Lieu of Taxes. The Agency shall adopt a uniform payment in lieu of tax policy in accordance with the provisions of Section 874 of the General Municipal Law of the State of New York. Prior to the adoption of such policy, the Agency shall notify all affected taxing jurisdictions of the proposed policy and give them an opportunity to comment in writing or at a meeting of the Agency. All deviations from the uniform policy, shall only occur upon compliance with the procedures set forth in Section 874 of the General Municipal Law. The Agency, reserves the right to provide lesser benefits to applicants in its sole discretion.

Section 5. Audit or Records and Accounts.

1. The Agency shall annually secure a certified audit of its financial records and accounts and shall file a copy of such certified audit with the Town Board of within ninety days after the close of the Agency's calendar year, for its proceedings and its activities during the preceding calendar year.

2. The Agency shall within ninety days following the close of its fiscal year prepare the annual financial statement required under Section 859 of the General Municipal Law of the State of New York. The financial statement shall be in form prescribed by the State Comptroller and shall be filed within thirty days following its completion with the Commissioner of the Department of Economic Development, the State Comptroller and the Town of Clarence.

3. The Agency may require any other operating statements which it shall determine is required for daily operation.

Section 6. Conveyance of Property. The Agency may insert in a contract for a project that upon the payment in full of all notes, bonds and 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 will be the sum of one (1) dollar and all legal costs.

Section 7. The Agency by resolution may 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.