

PART 3

BY-LAWS OF AGENCY

SECTION 301. PURPOSE AND AUTHORITY. The purpose of this Part is to establish such procedures relating to the making of By-Laws of the Montgomery County Industrial Development Agency (the “Agency”) as necessary for the implementation of Section 858(5) of Title One of Article 18-A of the General Municipal Law (the “Act”). Section 858(5) of the Act provides as follows:

“(5) To make by-laws for the management and regulation of its affairs and, subject to agreements with its bondholders, for the regulation of the use of a project or projects.”

SECTION 302. BY-LAWS. A copy of the By-Laws of the Agency is attached hereto as Appendix 3A.

SECTION 303. AMENDMENT OF BY-LAWS. The By-Laws of the Agency may be amended only with the approval of at least a majority of all of the members of the Agency at a regular or a special meeting, but no such amendment shall be adopted unless at least seven days written notice thereof has been previously given to all members of the Agency.

APPENDIX 3A
BY-LAWS
OF
THE MONTGOMERY COUNTY INDUSTRIAL DEVELOPMENT AGENCY

ARTICLE I
THE AGENCY

Section 1. Name. The name of the Agency shall be the Montgomery 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 at Old County Courthouse, P.O. Box 1500, Fonda, 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

MEMBERS; OFFICERS OF THE BOARD;
BOARD COMMITTEES

Section 1. Officers. The officers of the Agency shall be a Chairman, a Vice Chairman, a Secretary, a Treasurer, an Assistant Secretary-Assistant Treasurer.

Section 2. Chairman. The Chairman shall preside at all meetings of the Agency. Except as otherwise authorized by resolution of the Agency, the Chairman shall sign all agreements, contracts, deeds, bonds or other evidences of indebtedness and any other instruments of the Agency. At each meeting the Chairman shall submit such recommendations and information as he may consider proper concerning the business, affairs and policies of the Agency.

Section 3. Vice Chairman. The Vice Chairman shall perform the duties of the Chairman in the absence or incapacity of the Chairman; and in 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 keep the records of the Agency, shall act as Secretary of the meetings of the Agency and record all votes, and shall keep a record of the proceedings of the Agency in a journal of proceedings to be kept for such purpose, and shall perform all duties incident to his office. He shall 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 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. The Treasurer shall sign all checks for the payment of money; and shall pay out and disburse such moneys under the direction of the Agency except as otherwise authorized by resolution of the Agency, all such checks shall be countersigned by the Chairman. In the event of the absence or incapacity of the Chairman, the Vice Chairman is authorized to countersign any checks prepared by the Treasurer. He shall keep regular books of accounts showing receipts and expenditures and shall render to the Agency at each regular meeting an account of his transactions and also of the financial condition of the Agency. He shall give such bond for the faithful performance of his duties as the Agency may determine.

Section 6. Assistant Secretary-Assistant Treasurer. The Assistant Secretary-Assistant Treasurer shall perform the duties of the Secretary and/or Treasurer in the absence or incapacity of either; and in case of the resignation or death of either, shall perform such duties as are imposed until such time as the Agency shall appoint a replacement.

Section 7. 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. In the absence or incapacity of the Treasurer, each officer of the Agency may countersign with the Chairman and with such countersignature of the Chairman shall have (1) the power to sign all checks of the Agency for the payment of money, (2) the power to pay out and disburse such moneys under the direction of the Agency, and (3) the care and custody of all funds of the Agency and the power to deposit the same in the name of the Agency in such bank or banks as the Agency may select.

Section 8. Appointment of Officers. All officers of the Agency except the first Chairman shall be elected at the annual meeting of the Agency from among the members of the Agency, and shall hold office for one year or until the successors are appointed.

Section 9. Vacancies. Should any office become vacant, the Agency shall elect a successor from among its membership at the next regular meeting, and such appointment shall be for the unexpired term of said office.

Section 10. Chief Executive Officer. The Chief Executive Officer shall be the chief administrative and operating officer of the Agency and shall; subject to oversight by the board, be responsible for the general supervision, efficient administration and operation and activities of the Agency, carry out the policies and directives of the Board; be responsible for obtaining and furnishing to the Board financial and other reports as may be required by the Agency; recommend to the Board, from time to time, such measures as the Chief Executive Officer shall deem necessary or advisable; furnish the Board with necessary information respecting any Business of the Agency; be responsible for supervising the implementation and maintenance of those systems and processes necessary to assess and address risks confronted by the Agency in the performance of its corporate objectives, measuring corporate performance and for furnishing

the Board with necessary information respecting those functions; be responsible for the preparation and submission to the Board of the proposed annual budget for adoption by the Board and of any amendments thereto, from time to time, for adoption by the Board; keep the Board informed as to the financial needs and condition of the Agency; and exercise such other powers and perform such other duties as the Board may determine. The Chief Executive Officer shall certify the Annual financial Report.

Section 11. Chief Financial Officer. The Chief Financial officer shall: supervise and direct the financial activities of the Agency; supervise and direct the Agency's investment program; supervise and direct the Agency's accounting functions; report on operations and financial performance; recommend and implement financial policies; develop financial management systems and appropriate internal controls necessary for accurate financial reporting; and perform such other duties as the Chief Executive Officer may determine. The CFO shall also maintain the PARIS system. The Chief Financial Officer shall certify the Annual Financial Report.

Section 12. Contracting Officer (Usually CEO). The contracting officer shall be responsible for the preparation of guidelines for the disposition of property as required by the Public Authorities Accountability Act of 2005. He or she shall assist the Board in its Annual Review and approval of said guidelines and their annual filing with the state comptroller. The contracting officer shall develop and maintain inventory controls and accountability system for all property under the control of the Agency. He or she shall periodically inventory property to determine if disposal is appropriate. He or she shall prepare annual written reports for submission to the appropriate state officials required by the statute.

Section 13. Investment Officer (Usually CFO). The Investment Officer shall be responsible to invest with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived. Proper records shall be maintained of all books, notes, securities or other evidences of indebtedness held by or for the Agency for purposes of investment.

Section 14. Committees. The Chairman and members of all committees shall be appointed by the Chairman of the Agency who shall be an ex-officio member of each committee. A quorum of any committee shall consist of a majority of members of that committee.

Section 15. Governance Committee. (A) The Chairman shall appoint a Governance Committee, to be comprised of not less than three Independent Members, who shall constitute a majority on the committee, and who shall possess the necessary skills to understand the duties and functions of the Governance Committee; provided, however, that in the event that a board has less than three Independent Members, the board may appoint non-Independent Members to the Governance Committee, provided that the Independent Members must constitute a majority of the members of the Governance Committee.

(B) The Governance Committee shall: (1) keep the board informed of current best governance practices; (2) review corporate governance trends; (3) recommend updates to the Agency's corporate governance principles; (4) advise appointing authorities on the skills and

experiences required of potential board members, (5) examine ethical and conflict of interest issues, (6) perform board self-evaluations and (7) recommend by-laws which include rules and procedures for conduct of board business, and (8) advise the Board on the skills and experiences required of potential Members of the Board.

Section 16. Audit Committee. (A) The Chairman shall appoint an Audit Committee, to be comprised of not less than three Independent Members, who shall constitute a majority on the committee, and who shall possess the necessary skills to understand the duties and functions of the Audit Committee; provided, however, that in the event that a board has less than three Independent Members, the board may appoint non-Independent Members to the Audit Committee, provided that the Independent Members must constitute a majority of the members of the Audit Committee.

(B) Members of the Audit Committee shall be familiar with corporate financial and accounting practices.

(C) The Audit Committee shall ensure that the Agency arranges for the timely preparation and appropriate filing of the annual budget, the annual financial statements, the annual financial reports and the annual financial audit required by Article 18-A of the General Municipal Law.

(D) The Audit Committee shall recommend to the Board the hiring of a certified independent public accounting firm for the Agency, establish the compensation to be paid to the accounting firm, and provide direct oversight of the performance of the independent audit performed by the accounting firm hired for such purpose. The Audit Committee shall not recommend the hiring of a certified independent public accounting firm to provide audit services to the Agency if the Chief Executive Officer, comptroller, Chief Financial Officer, chief accounting officer, or any other person serving in an equivalent position for the Agency was employed by that certified independent public accounting firm and participated in any capacity in the audit of the Agency during the one year period preceding the date of the initiation of the audit.

(E) If the lead (or coordinating) audit partner (having primary responsibility for the audit) of the certified independent public accounting firm proposing to provide an annual independent audit for the Agency, or the audit partner responsible for reviewing the audit, has performed audit services for the Agency in each of the five previous fiscal years of the Agency, the Audit Committee shall prohibit such certified independent public accounting firm from providing an annual independent audit for the Agency.

(F) The Audit Committee shall require that each certified independent public accounting firm that performs for the Agency an audit required by law shall timely report to the Audit Committee: (1) all critical accounting policies and practices to be used; (2) all alternative treatments of financial information within generally accepted accounting principles that have been discussed with management officials of the Agency, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the certified independent public accounting firm; and (3) other material written communications between the certified

independent public accounting firm and the management of the Agency, such as the management letter along with management's response or plan of corrective action, material corrections identified or schedule of unadjusted differences, where applicable.

(G) The Audit Committee shall prohibit the certified independent public accounting firm providing an annual independent audit for the Agency from performing any non-audit services to the Agency contemporaneously with the audit, unless receiving previous written approval by the Audit Committee, including: (1) bookkeeping or other services related to the accounting records or financial statements of the Agency; (2) financial information systems design and implementation; (3) appraisal or valuation services, fairness opinions, or contribution-in-kind reports; (4) actuarial services; (5) internal audit outsourcing services; (6) management functions, (7) broker or dealer, investment advisor, or investment banking services; and (8) legal services and expert services unrelated to the audit.

Section 17. Finance Committee. (A) The Chairman shall appoint a Finance Committee, to be comprised of not less than three Independent Members, who shall constitute a majority on the committee, and who shall possess the necessary skills to understand the duties and functions of the Finance Committee; provided, however, that in the event that a board has less than three Independent Members, the board may appoint non-Independent Members to the Finance Committee, provided that the Independent Members must constitute a majority of the members of the Finance Committee.

(B) The Finance Committee shall be responsible for the following:

(i) Reviewing proposals for the issuance of debt by the Agency and its subsidiaries and to make recommendations concerning those proposals to the members;

(ii) Making recommendations to the members concerning the level of debt and nature of debt issued by the Agency;

(iii) Making recommendations concerning the appointment and compensation of bond counsel, investment advisors and underwriting firms used by the Agency, and to oversee the work performed by these individuals and firms on behalf of the Agency;

(iv) Meeting with and requesting information from Agency staff, independent auditors and advisors or outside counsel, as necessary to perform the duties of the committee.

(v) Annually reviewing the Agency's financing guidelines and making recommendations to the members concerning criteria that should govern its financings;

(vi) Reporting annually to the Agency's board how it has discharged its duties and met its responsibilities as outlined in the charter adopted by the committee; and

(vii) Conducting an annual self-evaluation of its performance, including its effectiveness and compliance with the charter and request the member's approval for proposed changes.

Section 18. Consultants. The Agency may from time to time employ consultants. Such consultants shall have such duties and have such compensation as provided by written contract with the Agency.

Section 19. 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 New York State Industrial Development 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 shall be determined by the Agency subject to the laws of the State of New York.

ARTICLE III

MEETINGS

Section 1. Annual Meetings. The annual meeting of the Agency will be held on the 2nd Thursday of January at a time to be determined by the Chairman at the regular meeting place of the Agency or such other place as designated by the members. In event such day shall fall on a legal holiday, the annual meeting shall be held as soon thereafter as is practicable but not later than June 1.

Section 2. Regular Meetings. Regular meetings of the Agency will be held with notice at such times and places as from time to time may be determined by resolution of the Agency and in accordance with New York law.

Section 3. Special Meetings. The Chairman of the Agency may, as he deems it desirable, and shall, upon the written request of the 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 members failing to receive proper notice. At such special meeting, no business shall be considered other than as designated in the call, but if all the members of the Agency are present at a special meeting, with or without notice thereof, any and all business may be transacted at such special meeting.

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.

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

1. Call to Order
2. Approval of the minutes
3. Communications
4. Public Comment
5. Chair's Report
6. CEO Report
7. Financial Report
8. Unfinished Business
9. New Business
10. Adjournment

All resolutions shall be in writing and shall be copied in a journal of the proceedings of the Agency.

Section 6. Manner of Voting. The voting on all questions coming before the Agency shall be by roll call, and 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.

ARTICLE IV

AMENDMENTS

Section 1. Amendments to By-Laws. The by-laws 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 seven days written notice thereof has been previously given to all members of the Agency.

In effect as of _____.