

# **CORPORATE BY-LAWS FOR CITY OF TONAWANDA LOCAL DEVELOPMENT CORPORATION**

## ARTICLE I – NAME AND TYPE

The name of the organization shall be City of Tonawanda Local Development Corporation. The organization was incorporated by the filing of a Certificate of Incorporation with the Secretary of State for the State of New York on July 11, 2017. The Corporation was incorporated pursuant to Section 1411 of the Not-for-Profit Corporation Law. The Corporation will apply for recognition as an exempt corporation pursuant to Section 501(c)(3) of the Internal Revenue Code.

## ARTICLE II – PURPOSES

The charitable purposes for which the Corporation is formed and shall be operated exclusively, within the meaning of Section (501)(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any future federal tax code (the “Code”), shall be to relieve and reduce unemployment, to promote and provide for additional and maximum employment, to improve and maintain job opportunities, to provide instruction or training to individuals to improve or develop their capabilities for employment, to encourage the attraction, development or retention of businesses, and to combat community deterioration and blight, all within the City of Tonawanda, New York, and to lessen the burdens of government and act in the public interest. In furtherance of said purposes, the Corporation shall have all powers as set forth the Corporation’s Certificate of Incorporation and all powers conferred by Section 202 and Section 1411 (c) of the Not-for-Profit Corporation Law.

## ARTICLE III – CONFLICT OF INTEREST

The Directors and officers of the Corporation shall operate in accordance with the ethical standards as stated in the Corporation’s Conflict of Interest Policy and Code of Ethics and applicable laws, as any or all may be amended from time to time.

## ARTICLE IV - MEMBERS

The Corporation shall have no members.

## ARTICLE V - BOARD OF DIRECTORS

### Section 1. Powers and Number.

The Board of Directors shall have general power to control and manage the affairs and property of the Corporation in accordance with the purposes and limitations set forth in the Certificate of Incorporation. The number of directors constituting the entire Board after the first meeting of the Board of Directors shall be such number, not less than three (3) nor more than fifteen (15), as shall be fixed by a majority of the entire Board from time to time. Tnumber may be increased or decreased by action of the majority of the Board, but no decrease shall shorten the term of any incumbent director.

The following individuals shall serve as ex-officio non-voting members of the Board of Directors: (1) The Mayor of the City of Tonawanda, or his or her designee, and (2) A current member of the Common Council of the City of Tonawanda, as appointed by that body on an annual basis. All other members of the Board of Directors shall be appointed by the Corporation's Board of Directors.

The Board of Directors shall have full power by majority vote, to adopt rules and regulations governing the action of the Board of Directors and employees of the Corporation and shall have full authority with respect to the distribution and payment of monies received and owed by the Corporation from time to time. The Board of Directors shall ensure that the Corporation adheres to the charitable purposes of the Corporation, as expressed in the Certificate of Incorporation. The Board of Directors shall not permit any part of the net earnings of the Corporation to inure to the benefit of any director, officer or other private person.

All directors of the Corporation shall, to the extent required under the New York Public Authorities Law, participate in training approved by the State of New York regarding their legal, fiduciary, financial and ethical responsibilities as directors within one (1) year of appointment to the Board. All directors shall participate in such continuing training as may be required to remain informed of best practices, regulatory and statutory changes relating to the effective oversight of the management and financial activities of the Corporation and adhere to the highest standards of responsible governance.

All directors of the Corporation shall annually be required to complete a Conflict of Interest form, disclosing any relationships or financial interests they or their immediate family members may have that would constitute, or have the appearance of, a conflict of interest.

#### Section 2. Election and Term of Office.

The directors who are not serving by virtue of their office shall be elected for a term of three years at the annual meeting of the Board of Directors by a majority of the entire Board and each shall continue in office until his or her successor shall have been elected and qualified, or until his or her death, resignation or removal. While the term of office for each director shall be three years, the term of office for the members of the first Board of Directors elected at the first meeting shall be as follows:

- a) One-third shall be elected for two years;
- b) One-third shall be elected for three years;
- c) One-third shall be elected for four years.

Nominations to the Board of Directors shall be made by the Nominating Committee appointed by the Board and shall be set forth in the notice of the annual meeting.

#### Section 3. Vacancies.

Any vacancy in the Board of Directors arising at any time and from any cause (including because of the authorization of an increase in the total number of directors) may be filled at any meeting of the Board of Directors by an affirmative vote of a majority of the directors. Each director so elected shall hold office until the election at the annual meeting of the Board of

Directors and until the qualification of his or her successor. The foregoing notwithstanding, any vacancy in the Board position held by a member of the Common Council shall be filled by an appointment made by that body.

Section 4. Removal.

Any director not serving by virtue of his or her office may be removed, with or without cause, by an affirmative vote of a majority of the Board of Directors. Four unexcused absences within a twelve-month calendar year will trigger a Board vote for removal.

Section 5. Resignation.

Any director may resign at any time by giving written notice to the Chair. The acceptance of the resignation, unless required by its terms, shall not be necessary to make the resignation effective.

Section 6. Annual Meetings. Notice.

There shall be an annual meeting of the Board of Directors and it shall be held at the principle office of the Corporation or at such other place as the Board of Directors shall designate and at such time and date as they shall designate as well. Notice of the hour, date and place of the annual meeting shall be given by the Secretary or Program Manager in writing by either personal delivery, e-mail, or by prepaid first class U.S. mail, addressed to each director and given not less than ten (10) nor more than fifty (50) days before the annual meeting.

The Chief Executive Officer and Chief Financial Officer shall present at the annual meeting of the Board of Directors a report, verified by the Chief Executive Officer and Chief Financial Officer, showing in appropriate detail the following: (a) the assets and liabilities, including the trust funds, of the Corporation as of the end of a twelve month fiscal period terminating not more than six months prior to said meeting; (b) the principal changes in assets and liabilities, including trust funds, during said fiscal period; (c) the revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes during said fiscal period; and (d) the expenses or disbursements of the Corporation, for both general and restricted purposes, during said fiscal period. The report shall be filed with the minutes of the annual meeting.

Section 7. Regular Meetings. Notice.

Regular monthly meetings of the Board of Directors shall be held at such time, date and place as may be determined by the directors. Unless otherwise fixed by the Board of Directors, notices of such regular meetings shall be given to all directors at least seven (7) days in advance and in the same manner as required for notice of annual meetings.

Section 8. Special Meetings; Notice.

Special meetings of the Board of Directors may be held upon the call of the Chair, Vice Chair, Secretary, Treasurer or any two directors. Such meetings may be held at the principle office of the Corporation or at such place as may be designated in the notice for such meetings. Notice of the hour, date, place and purpose of any special meeting of the Board of Directors shall be given in writing by either personal delivery, e-mail or by prepaid first class U.S. mail by

the persons calling the meeting, and must be received by each director and the Program Manager at least two (2) days before the scheduled date for such special meeting.

Section 9. Participation by Interactive Video Conferencing.

Any director may participate in a meeting of the Board of Directors (or a committee thereof) by interactive video-conferencing to the extent permitted under, and in accordance with the provisions of, the Not-For-Profit Corporation Law and the New York Open Meetings Law. For the purpose of establishing a quorum, any director so participating shall be deemed to be present.

Section 10. Action by the Board.

Each Board member shall be entitled to one vote in person or, to the extent permitted, by interactive video-conference. All action taken by the Board shall be authorized by a majority of the whole number of the Board of Directors. The whole number of the Board shall mean the total number of members the Board of Directors would have if there were no vacancies and if none of the members of the Board were disqualified from acting.

Section 11. Quorum, Adjournments, Notice.

At all meetings of the Board of Directors, a majority of the whole number of the Board shall constitute a quorum for the transaction of corporate business. In the absence of a quorum at any meeting, a majority of the directors present may adjourn and reschedule the meeting. Notice of the adjournment and rescheduling shall be given to all directors who were absent at the time of the original meeting. If the meeting was not rescheduled during the original meeting, notice shall be given to all directors. If at the rescheduled meeting a quorum of this directors is present, then any business may be transacted which might have been transacted at the meeting as originally called.

Section 12. Organization.

The Chair of the Corporation shall preside at all meetings of the Board of Directors; or in the absence of the Chair, the Vice Chair shall preside. The Secretary of the Corporation shall act as Secretary at all meetings of the Board of Directors. In the absence of the Secretary, the presiding officer may appoint any person to act as Secretary at the meeting.

ARTICLE VI - OFFICERS AND EMPLOYEES

Section 1. Officers.

The officers of the Corporation shall be a Chair, Vice Chair, Chief Executive Officer, Secretary, Treasurer and Chief Financial Officer and may also include such other officers as the Board of Directors may elect. The Chair, Vice Chair, Secretary and Treasurer shall be members of the Board of Directors. The Chief Executive Office and Chief Financial Officer may be, but are not required to be, directors of the Corporation. One person may hold more than one office in the Corporation, except that one person may not hold both the offices of Chair or Chief Executive Officer and Secretary. An instrument that is required to be signed by more than one officer may not be signed by one person in more than one capacity.

Section 2. Election, Term of Office.

The officers of the Corporation shall be elected at the initial meeting of the Board of Directors and thereafter at the annual meeting of the Board of Directors, and each shall continue in office until his or her successor is elected and qualified, or until he or she dies, is removed or resigns.

Section 3. Vacancies.

Any vacancy in any office arising at any time and from any cause may be filled by the Board of Directors. Such interim officers may be elected by a majority of the directors. Each officer so elected shall hold office for the unexpired portion of the term of his or her predecessor and until his or her successor has been elected and qualified.

Section 4. Removal.

Any officer of the Corporation may be removed, with or without cause, by a vote of a majority of the directors.

Section 5. Resignation.

Any officer may resign at any time by giving written notice to the Chair or at least two (2) directors. The acceptance of the resignation, unless required by its terms, shall not be necessary to make the resignation effective.

Section 6. Chair: Powers and Duties.

The Chair of the Board of Directors shall be the chief operating officer of the Corporation and shall serve at the pleasure of the Board. He or she shall have the general supervision of the affairs of the Corporation and shall keep the Board of Directors fully informed and shall freely consult with them concerning the activities of the Corporation. He or she may be removed at any time, with or without cause, by majority vote of the directors. He or she shall have the power to sign alone (unless the Board of Directors shall specifically require an additional signature) all contracts authorized either generally or specifically by the Board of Directors. He or she shall also have such other powers and duties as the Board of Directors may assign to him or her from time to time.

Section 7. Vice Chair: Powers and Duties.

The Vice Chair shall have such powers and duties as may be assigned to him or her by the Board of Directors. In the absence of the Chair, the Vice-Chair shall in general perform the duties of the Chair.

Section 8. Secretary: Powers and Duties.

The Secretary shall act as Secretary at all of the meetings of the Board of Directors at which he or she is present, and shall keep the minutes of all such meetings. The Secretary shall be responsible for giving and serving all notices of the Corporation and shall perform all duties incident to the office of Secretary, subject at all times, however, to the control of the Board of Directors. The Secretary shall perform such other duties as shall from time to time be assigned to him or her by the Board of Directors.

Section 9. Treasurer: Powers and Duties.

The Treasurer shall have supervision of all funds and securities of the Corporation which may come into his or her hands. The Treasurer shall keep (or shall cause to be kept) complete and accurate accounts of the receipts and disbursements of the Corporation, and he or she shall deposit (or shall cause to be deposited) all monies and other valuable effects of the Corporation in the name of and to the credit of the Corporation in such banks and depositories as the Board of Directors may designate. Whenever required by the Board of Directors, the Treasurer shall render a statement of the Corporation's accounts. Upon reasonable request, the Treasurer shall exhibit the books and accounts of the Corporation to any officer or director of the Corporation. He or she shall perform all the duties incident to the office of Treasurer, subject at all times, to the control of the Board of Directors. The Treasurer shall, in conjunction with the Audit and Finance Committee, oversee the performance of the independent audits of the Corporation and preparation of the Corporation's financial statements. The Treasurer shall, if required by the Board of Directors, give such security for the faithful performance of his or her duties as the Board of Directors may require.

Section 10. Chief Executive Officer: Powers and Duties.

The Chief Executive Officer of the Corporation (the "CEO") shall manage the affairs of the Corporation, exercise supervision and control over the Corporation's administrative functions, including personnel, budgeting, program and policy implementation, see that all orders and resolutions of the Board are carried into effect, and, subject to approval of the Board, have the authority to sign agreements, contracts, deeds and any other instruments on behalf of the Corporation.

Section 11. Chief Financial Officer: Powers and Duties.

The Chief Financial Officer of the Corporation (the "CFO") shall, in cooperation with the Treasurer, have the care and custody of all of the Corporation's funds and securities and shall deposit said funds, in the Corporation's name, in such banks and depositories as the Board may designate. The CFO shall keep regular books of accounts showing all of the Corporation's receipts and expenditures and shall at all reasonable times exhibit the Corporation's books and accounts to any director of the Corporation upon application at the Corporation's office during ordinary business hours. The CFO shall render at each regular meeting of the Board an account of the financial transactions and the current financial condition of the Corporation and shall prepare, execute and file, with the Chief Executive Officer, any annual report(s) or statement(s) which may be required by law. In addition, at the end of the Corporation's fiscal year, the CFO shall have the accounts of the Corporation audited and shall present the results

of such audit in writing at the annual meeting of the members, at which time the CFO shall also present an annual report setting forth in full the financial condition of the Corporation.

#### Section 12. Other Agents and Employees.

From time to time, the Board of Directors may appoint such other agents and employees as it shall deem necessary to the Corporation, each of whom shall hold office at the pleasure of the Board of Directors. Each such agent or employee shall have such authority, shall perform such duties and shall receive such reasonable compensation as the Board of Directors may determine from time to time.

#### Section 13. Committees

The Corporation shall have at least six (6) standing committees designated as follows: Audit and Finance Committee, Governance Committee, Marketing Committee, Historic Preservation Committee, Economic Revitalization Committee and the Tonawanda Main Street Committee.

Except as set forth below with respect to the Audit and Finance Committee and the Governance Committee, each committee shall consist of not less than three (3) members, as appointed by the Board of Directors, which shall include at least one Director of the Corporation and the CEO of the Corporation, who shall sit on all standing committees of the Corporation. A member of the Board of Directors of the Corporation shall serve as chairperson of each committee and shall be responsible for directing and coordinating the affairs of the committee. The committee members shall be appointed at the annual meeting of the Corporation and serve for a term of one (1) year and thereafter until his or her successor is appointed.

The Standing Committees shall perform such activities as the Board may designate from time to time, including, but not limited to, the following:

**Audit and Finance Committee:** The Audit and Finance Committee shall be comprised of not less than three (3) "independent members" of the Corporation within the meaning of, and to the extent required by, Section 2825 of the New York Public Authorities Law, as may be amended from time to time, who shall be members of the Board of Directors and who shall constitute a majority of the committee. The CEO shall also be a member of the Audit and Finance Committee. Committee members shall be appointed by the Board at its annual meeting, and each appointee shall, to the extent practicable, be familiar with corporate financial and accounting practices. The Audit and Finance Committee shall:

(a) Provide assistance to the Board in fulfilling its fiduciary responsibilities relating to accounting, reporting and regulatory compliance practices;

(b) Maintain, by way of regularly scheduled meetings (at least once prior to the commencement and once after the completion of the annual audit process), a direct line of communication between the Board and the Corporation's independent accountants and auditors to provide for exchanges of views and information;

(c) Maintain, as appropriate, a direct line of communication between the Board and the governmental authorities having audit authority or official oversight of the Corporation;

(d) Approve the Corporation's budget for submission to the Board; and

(e) Approve and/or direct transfers of money under the budget.

The Audit and Finance Committee shall also recommend to the Board the hiring of a certified independent accounting firm, establish the compensation to be paid to such accounting firm, provide direct oversight of the performance of the independent audit performed by the accounting firm hired for such purposes and receive reports from such accounting firm. The Audit and Finance Committee shall report to the Board on a periodic basis, at least annually, the findings of its independent accountants and auditors. These reports shall include careful consideration of the actions taken by management regarding the independent accountants' and auditors' suggestions for correcting weaknesses, if any, in the Corporation's internal controls, regulatory compliance, organizational structure and operations. These reports may include the adequacy of the audit effort by the Corporation's independent accountants and auditors, the financial and regulatory compliance reporting decisions of management, the adequacy of disclosure of information essential to a fair presentation of the financial affairs and regulatory compliance efforts of the Corporation, and the organization and quality of the Corporation's system of management and internal accounting control. In addition to the foregoing, the Audit and Finance Committee shall review any proposals for issuance of debt by the Corporation and shall make recommendations to the Board regarding such proposals.

**Governance Committee:** The Governance Committee shall be comprised of not less than three (3) "independent members" of the Corporation within the meaning of, and to the extent required by, Section 2825 of the New York Public Authorities Law, as may be amended from time to time, who shall be members of the Board of Directors and who shall constitute a majority of the committee. The CEO shall also be a member of the Governance Committee. Each committee member shall be appointed at the annual meeting of the Corporation and shall possess the necessary skills to understand the duties and functions of the Governance Committee. The Governance Committee shall:

(a) Keep the Board informed of current best governance practices;

(b) Review corporate governance trends;

(c) Update the Corporation's corporate governance principles;

(d) Advise those responsible for appointing members to the Board of the skills and experience required of potential Board members;

(e) Examine ethical and conflict of interest issues;

(f) Perform board self-evaluations; and

(g) Recommend by-laws which include rules and procedures for conduct of



Board business.

**Marketing Committee:** The Marketing Committee shall develop an organizational strategy and present an implementation plan to the Board that (a) promotes opportunities for investment and development in Tonawanda, (b) promotes the quality of life and positive developments in Tonawanda, (c) promotes available incentives to businesses and investors, and (d) recruits essential good and service providers to the community.

**Historic Preservation Committee:** The Historic Preservation Committee shall develop a plan to highlight historic resources and properties in Tonawanda and develop strategies for protecting and enhancing said resources and properties.

**Economic Revitalization Committee:** The Economic Revitalization Committee shall seek out regional, state, and federal resources to develop a set of programs and incentives for the Board to administer and will work with the Marketing Committee to identify existing gaps in goods and services available in Tonawanda, and formulate a strategy for recruiting providers to fill said gaps.

**Tonawanda Main Street Committee:** The Tonawanda Main Street Committee shall focus on development in the downtown commercial district and will develop strategies to attract businesses and preserve and enhance the downtown district, consistent with the mission and purposes of the Corporation.

The Board of Directors may designate or appoint one or more committees, in addition to the above-named standing committees, including, without limitation:

- 1) an Executive Committee, composed of the Chair, Vice Chair, Secretary and Treasurer, and which shall, to the extent provided in said resolution, make recommendations to the Board of Directors with respect to the management of the Corporation; and
- 2) a Nominating Committee, consisting of not less than three (3) members, at least one of whom shall be a Director of the Corporation and who shall serve as chairperson of the committee and shall be responsible for directing and coordinating the affairs of the committee to the extent provided in said resolution of the Board of Directors. The Nominating Committee shall solicit interest for director, officer and committee positions for the following year and shall present a slate of candidates to the Board at the annual meeting.

## ARTICLE VII - CONTRACTS, CHECKS, BANK ACCOUNTS AND INVESTMENTS.

### Section 1. Checks, Notes, Contracts.

The Board of Directors is authorized to select such banks, depositories and investments advisors as it shall deem to be proper for holding and investing the funds of the Corporation. The Board of Directors shall determine who shall be authorized to sign checks, drafts or other orders for the payment of money, to sign acceptances, notes or other evidences of

indebtedness or to enter into contracts or to execute and deliver documents and instruments on the Corporation's behalf.

Section 2. Investments.

The funds of the Corporation may be retained in whole or in part in cash or be invested and reinvested from time to time in accordance with Investment Guidelines adopted from time to time by the Board of Directors.

ARTICLE VIII - OFFICE AND BOOKS

Section 1. Office.

The office of the Corporation shall be located in the City of Tonawanda, County of Erie, State of New York.

Section 2. Books.

There shall be kept at the office of the Corporation or such other place as the Board of Directors shall designate, correct books of account of the activities and transactions of the Corporation, including a minute book, which shall contain a copy of the Certificate of Incorporation, a copy of these By-Laws and all minutes of the meetings of the Board of Directors.

ARTICLE IX - CORPORATE SEAL

The seal of the Corporation shall be circular in form and shall bear the name of the Corporation and such words and figures showing that the Corporation was incorporated in the State of New York and showing the year of incorporation.

ARTICLE X - FISCAL YEAR

The fiscal year of the Corporation shall be the calendar year.

ARTICLE XI – INDEMNIFICATION

The Corporation shall indemnify its directors and officers in the manner and to the full extent now or hereafter provided by the Not-For-Profit Corporation Law of the State of New York, and, except as provided in that law, the Corporation may provide additional indemnification pursuant to agreement, action of the Board of Directors, or provision of these By-Laws. The foregoing notwithstanding, no indemnification may be made to or on behalf of any director or officer if a judgment or other final adjudication adverse to the director or officer establishes that his or her acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or that he or she personally gained a financial profit or other advantage to which he or she was not legally entitled. The Corporation is authorized to procure, pay for and maintain policies of insurance to indemnify the Corporation,

its officers and directors in respect of claims which might be made against the Corporation, its officers and directors.

#### ARTICLE XII - AMENDMENT

These By-Laws may be amended at any meeting of the Board of Directors by a vote of the majority of the directors.

#### ARTICLE XIII- MISCELLANEOUS

It shall be the policy of the Corporation to adopt by-laws, policies and procedures and to conduct its operations in accordance with applicable State, Federal and local laws, including, without limitation, the New York Open Meetings Law.

Date Adopted: August 17, 2017

Amended: July 13, 2021