

BY-LAWS

OF

UTICA HARBOR POINT DEVELOPMENT CORPORATION

ARTICLE I THE CORPORATION

- Section 1 Name. The name of this Corporation is the Utica Harbor Point Development Corporation and it shall be referred to in these by- laws as "the Corporation."
- Section 2 Purpose. The objects and purposes of this Corporation are those objects and purposes stated in its Certificate of Incorporation.

ARTICLE II OFFICE AND BOOKS

- Section 1 Place of Business. The Corporation shall maintain a reasonably accessible place of business, which shall have a separately listed telephone number, and shall be open to the public during normal business hours.
- Section 2 Principal Office. The principal office of the Corporation shall be located at One Kennedy Plaza, in the City of Utica, County of Oneida and State of New York.
- Section 3 Records. There shall be kept at the principal office of the Corporation correct records of account of the activities and transactions of the Corporation, including a minute book, which will contain a copy of the Certificate of Incorporation, a copy of these by-laws, and all minutes of meetings of the Corporation's Board of Directors.

ARTICLE III MEMBERS

- Section 1 Class of Members. The City of Utica, by and through its Mayor, shall be the sole member of the Corporation. The Mayor of the City of Utica, by virtue of his position as chief executive of the City of Utica, shall be solely responsible for acting, and solely entitled to act, on behalf of the member. All references herein to actions to be taken by or on behalf of the member shall be deemed to refer to actions to be taken by and through the Mayor as representative of the member.
- Section 2 Annual Meeting. The member shall hold an annual meeting during the month during which the last day of the Corporation's fiscal year occurs in each year at the time and place to be determined by the member for the purpose of electing

members of the Board of Directors as set forth herein, and the transaction of such other business as may properly come before the meeting.

Section 3 Special Meetings of Members. Special meetings of the member shall be held as may from time to time be determined by the member, or as may be called at any time by the President or by a majority of the Board of Directors.

Section 4 Notice of Special Meetings. Notice of the time, place and purposes of every special meeting of the member shall be served either personally or by mail upon the member not less than ten (10) days nor more than fifty (50) days before the date of such meeting.

Section 5 Unanimous Written Consent. The member shall have authority to undertake and/or authorize any action required or permitted to be taken by it to be taken without a meeting upon to the adoption of a resolution authorizing the undertaking or authorizing the action.

ARTICLE IV DIRECTORS

Section 1 Number; Qualification. The number of directors shall initially be three (3) and thereafter as fixed from time to time by the member, but in no event shall be less than three (3). Directors shall be elected by the member. No one shall be eligible to be a director of the Corporation if election to such position would cause a majority of the directors not to be independent members, as set forth in Section 2825 of the New York Public Authorities Law.

Section 2 Term. Each director shall serve as a director for a term of one (1) year.

Section 3 Removal. Any director may be removed, with or without cause, by the member.

Section 4 Vacancy. A vacancy on the Board of Directors occurring for any reason, including a vacancy due to an increase in the total number of directors, shall be filled by the member.

Section 5 Duties and Powers. The Board of Directors of the Corporation shall have the general management of the affairs, property and business of the Corporation and subject to these bylaws may adopt such rules and regulations for that purpose and for the conduct of its meetings as the board may deem proper. It shall have the power to appoint an executive committee and such other committees as from time to time shall be deemed advisable, each such committee to have such number of members and such powers as shall be fixed in the resolution of the Board of Directors creating and appointing such committee. They shall have the power to elect and remove officers, appoint and discharge agents and employees. Notwithstanding the foregoing, the Board of Directors shall take all actions

required, and shall refrain from taking any actions forbidden, by the Public Authorities Law of the State of New York, as in effect from time to time.

- Section 6 Compensation. Each director shall serve without compensation.
- Section 7 Annual Meeting. The annual meeting of the Board of Directors shall be held immediately following the annual meeting of the member for the purpose of electing officers, appointing committees and for the transaction of such other business as may properly come before the meeting.
- Section 8 Regular Meetings. Regular meetings of the Board of Directors shall be held at such time and place as may be determined by resolution of the Board of Directors and no notice shall be required for any regular meeting except as otherwise provided by law. Any business may be transacted at any regular meeting.
- Section 9 Special Meetings. Special meetings of the Board of Directors may, unless otherwise prescribed by law, be called at any time by the President or the Secretary. On the written request of a majority of the directors, the Secretary shall call a special meeting of the Board.
- Section 10 Notice of Special Meetings. Unless otherwise prescribed by law, notice of the time, place and purpose of any special meeting of the Board of Directors shall be served either personally upon each director or mailed or telegraphed to his address as it appears upon the records of the Corporation or to his last known post office address not later than ten (10) days prior to the meeting.
- Section 11 Quorum. At all meetings of the Board of Directors a majority of the directors shall constitute a quorum for the transaction of business but less than a quorum may adjourn such meeting from time to time without further notice until a quorum is present. Except as otherwise by law or in these bylaws provided, any act of a majority of the directors constituting a quorum shall be the act of the Board of Directors.
- Section 12 Unanimous Written Consent. The Board of Directors shall have authority to undertake and/or authorize any action required or permitted to be taken by the Board or any committee thereof to be taken without a meeting if all members of the Board of Directors or any committee thereof shall consent in writing to the adoption of a resolution authorizing the undertaking or authorizing the action.
- Section 13 Telephonic Board Meetings. Any one or more members of the Board of Directors or any committee thereof may participate in a meeting of such Board or committee thereof by means of a conference telephone or similar telephonic communication equipment allowing all persons participating in the meeting to hear each other and such participation by telephonic means shall constitute presence in person at such meeting.

Section 14 Committees.

- (a) Audit/Finance Committee. The Board of Directors shall appoint from among its members an audit committee of three (3) directors, to serve at the pleasure of the Board of Directors. The Board of Directors shall designate one member of such committee to serve as its chairperson. The members of the audit committee shall be independent members within the meaning of the New York State Public Authorities Law, and, to the extent practicable, shall possess or obtain familiarity with corporate finances and accounting. The audit committee shall (a) recommend to the Board of Directors the hiring of an independent certified public accountant, (b) establish the compensation to be paid to the said certified public accountant, (c) directly oversee audits performed by any certified public accountant, and (d) have such additional powers, and perform such other and further duties concerning the corporation and its finances as are prescribed by policies and procedures adopted by the Board of Directors.
- (b) Governance Committee. The governance committee shall consist of a minimum of three (3) members appointed by the Board. The governance committee will be responsible, in concert with the Chief Executive Officer, to review and develop the mission statement, and the annual goals and objectives of the Corporation. A majority of the governance committee shall constitute a quorum for the transaction of business. The governance committee shall keep books of separate minutes and report their action at every meeting of the Board of Directors or as often as they may be required by the Board of Directors. The governance committee will keep the Board of Directors informed of current best governance practices, review corporate governance trends, update the corporate governance principles and advise appointing experts, and authorities on the skills and experiences required of potential new Board of Directors members. It shall meet at least twice a year.
- (c) Other Committees. The Board of Directors may establish other committees as it may from time to time see fit, giving such committees specific objectives and powers not contrary to law, the Certificate of Incorporation, or these Bylaws. These committees' members shall be appointed and approved by the Board.

ARTICLE V
OFFICERS

Section 1 Number and Qualifications. The Board of Directors may appoint a President and Chief Executive Officer, a Vice President, a Secretary, a Treasurer and Chief Financial Officer, and such other officers, if any, including one or more Vice Presidents, as the Board of Directors may desire. One person may hold more than one office in the Corporation, except that one person may not hold both the offices of President and Secretary. No instrument required to be signed by more than one officer shall be signed by one person in more than one capacity. No one shall be eligible to be an officer of the Corporation if election to such position

would cause a majority of the directors not to be independent members, as set forth in Section 2825 of the New York Public Authorities Law. In the event the Board of Directors does not appoint one or more Officers of the Corporation, then all functions of such offices whether in law or as referenced herein shall be assumed by the Board of Directors directly.

Section 2 Elections, Term of Office and Removal. In the event the Board of Directors desires to appoint Officers of the Corporation, such Officers shall be elected annually at the Annual Meeting of the Board of Directors, or at a special meeting called for that purpose, and each shall continue in office until death, resignation or removal. Any officer of the Corporation may be removed, with or without cause, by the vote of a majority of the entire Board of Directors.

Section 3 Other Agents. The Board of Directors may from time to time appoint such agents as it shall deem necessary, each of whom shall hold office at the pleasure of the Board of Directors. Such agents shall have such authority as the Board of Directors shall determine.

Section 4 Vacancies. In case of any vacancy in any office a successor to fill the unexpired portion of the term may be elected by the Board of Directors at a special meeting called for that purpose.

Section 5 President: Powers and Duties. In the event the Board of Directors desires to appoint a President of the Corporation:

The President shall be the Chief Executive Officer of the Corporation. The President shall preside at all meetings of the Board of Directors. The President shall generally manage and supervise the affairs of the Corporation. The President shall keep the Board of Directors fully informed and shall freely consult with them concerning the activities of the Corporation. He or she shall have the power to sign alone, unless the Board of Directors shall specifically require an additional signature in the name of the Corporation, all contracts authorized either generally or specifically by the Board of Directors. He or she shall perform all duties incident to the office of President subject, however, to the control of the Board of Directors, and such other duties as shall from time to time be assigned to him or her by the Board of Directors.

Section 6 Vice President: Powers and Duties. In the event the Board of Directors desires to appoint a Vice President of the Corporation:

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

Section 7 Secretary: Powers and Duties. In the event the Board of Directors desires to appoint a Secretary of the Corporation:

The Secretary shall act as secretary of all meetings of the Board of Directors and shall keep or cause to be kept the minutes of all such meetings in the books proper for that purpose. He or she shall attend to the giving and serving of all notices of the Corporation. He or she shall perform all duties incident to the office of the Secretary subject, however, to the control of the Board of Directors, and such other duties as shall from time to time be assigned to him or her by the Board of Directors.

Section 8 Treasurer: Powers and Duties. In the event the Board of Directors desires to appoint a Treasurer of the Corporation:

The Treasurer shall be the Chief Financial Officer of the Corporation and shall have custody of all funds and securities of the Corporation that may come into his or her hands. He or she shall keep or cause to be kept complete and accurate accounts of receipts and disbursements of the Corporation, and shall deposit all monies and other valuable effects of the Corporation in the name and to the credit of the Corporation in such banks or depositories as the Board of Directors may designate. Whenever required by the Board of Directors, the Treasurer shall render a statement of the accounts. He or she shall exhibit the books and accounts upon request to any Officer or Director of the Corporation. He or she shall perform all duties incident to the office of Treasurer subject, however, to the control of the Board of Directors. He or she shall perform other duties as shall be assigned to him or her from time to time by the Board of Directors. The Treasurer shall give such security for the faithful performance of his or her duties as the Board of Directors may require.

Section 9 Employees. The Board of Directors may employ employees who are subject to the supervision of the President and the Board of Directors. Such employees shall be either full or part-time employees and shall carry out the purposes of the Corporation. Such employees shall receive such compensation as may be determine by the Board of Directors in accordance with law. The appointment of such employees shall be subject to the approval of the member.

ARTICLE VI CONTRACTS, CHECKS, BANK ACCOUNTS

The Board of Directors is authorized to select such banks or depositories as it shall deem proper for the funds of the Corporation. The Board of Directors may empower the staff of the Corporation to make deposits in any of its duly authorized bank accounts or depositories without countersignature by any Officer of the Corporation. Otherwise, such deposits will be made by the Treasurer of the Corporation in any of the Corporations duly authorized bank accounts or depositories without countersignature by any Officer of the Corporation. The Board of Directors shall determine, who, if anyone, in addition to the President, shall be authorized on the Corporation's behalf to sign checks, drafts or other orders for payment of money, acceptances,

notes or other evidences of indebtedness, enter into contracts, or execute and deliver other documents and instruments.

ARTICLE VII
CORPORATION SEAL

The Seal of the Corporation shall be circular in form and shall bear the name, of the Corporation and words and figures showing that it was incorporated in the State of New York in the year 2011.

ARTICLE VIII
CONTRACTS

No director or member shall contract or incur any debt or obligation on behalf of the Corporation or in any way render it liable unless duly authorized by the Board of Directors.

ARTICLE IX
LIABILITY AND INDEMNIFICATION

Section 1 Purpose. This Disposition Policy is designed to comply with Section 2824(f) of the New York State Public Authorities Law.

Section 2 Policy. No director or member of the Corporation shall be personally liable to any person or party dealing with the Corporation for any amount arising out of any claim, charge, service, obligation or otherwise against the Corporation; and any such person or claimant shall be paid and reimbursed solely out of the funds of the Corporation. No director or member of the Corporation shall be liable for any of his or her acts, actions or omissions either to the Corporation or to anyone else in the absence of bad faith or fraud. Such director or member shall be entitled to reimbursement for any and all expenses incurred by him in defense of any action as provided by the laws of the State of New York.

ARTICLE X
CODE OF ETHICS

Section 1 Code of Ethics. This Code of Ethics shall apply to all directors, officers and employees of the Corporation. These policies shall serve as a guide for official conduct and are intended to enhance the ethical and professional performance of the Corporation's directors, officers and employees and to preserve public confidence in the Corporation's mission. This Code of Ethics is designed to comply with Section 2824(d) of the New York State Public Authorities Law, and shall incorporate, in addition to the items set forth below, all of the provisions of Section 74(3) of New York Public Officers Law.

Section 2 Code of Ethics.

- (a) Directors, officers and employees shall perform their duties with transparency, without favor and refrain from engaging in outside matters of financial or personal interest, including other employment, that could impair independence of judgment, or prevent the proper exercises of one's official duties.
- (b) Directors, officers and employees shall not directly or indirectly, make, advise, or assist any person to make any financial investment based upon information available through his or her official position that could create any conflict between their public duties and interested and their private interests.
- (c) Directors, officers and employees shall not accept or receive any gift or gratuities where the circumstances would permit the inference that (a) the gift is intended to influence the individual in the performance of official business or (b) the gift constitutes a tip, reward, or sign of appreciation for any official act by the individual. This prohibition extends to any form of financial payments, services, loans, travel reimbursement, entertainment, hospitality, thing or promise from any entity doing business with or before the Corporation.
- (d) Directors, officers and employees shall not use or attempt to use their official position with the Corporation to secure unwarranted privileges for themselves, members of their family or others, including employment with the Corporation or contracts for materials or services with the Corporation.
- (e) Directors, officers and employees must conduct themselves at all times in a manner that avoids any appearance that they can be improperly or unduly influenced, that they could be affected by the position of or relationship with any other party, or that they are acting in violation of their public trust.
- (f) Directors, officers and employees may not engage in any official transaction with an outside entity in which they have a direct or indirect financial interest that may reasonably conflict with the proper discharge of their official duties.
- (g) Directors, officers and employees shall manage all matters within the scope of the Corporation's mission independent of any other affiliations or employment. Directors, officers and employees employed by more than one government entity shall strive to fulfill their professional responsibility to the Corporation without bias and shall support the Corporation's mission to the fullest.
- (h) Directors, officers and employees shall not use Corporation property, including equipment, telephones, vehicles, computers, or other resources, or disclose information acquired in the course of their official duties in a manner inconsistent with law, policy or the Corporation's mission and goals.
- (i) Directors, officers and employees are prohibited from appearing or practicing before the Corporation for two (2) years following employment with the

Corporation, consistent with the provisions of the New York State Public Officers Law.

- (j) No director, officer or employee shall disclose confidential information acquired by him or her in the course of his or her official duties or use such information to further his or her personal interests.

ARTICLE XI
CONFLICTS OF INTEREST POLICY

Section 1 Purpose. The purpose of the conflict of interest policy is to protect the Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Corporation. This policy is intended to supplement but not replace any applicable laws of the State of New York governing conflicts of interest applicable to nonprofit and charitable corporations, including but not limited to Section 2824 of the New York State Public Authorities Law.

Section 2 Interested Person. Any director, officer, or member of a committee with Board-delegated powers who has a direct or indirect financial interest, as defined below, is an interested person.

Section 3 Financial Interest. A person has a financial interest if the person has, directly or indirectly, through business, investment or family;

- (a) an ownership or investment interest in any entity with which the Corporation has a transaction or arrangement;
- (b) a compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement;
- (c) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature. A financial interest is not necessarily a conflict of interest. Under Section 5 of this Article, a person who has a financial interest may have a conflict of interest only if the appropriate board or committee decides that a conflict of interest exists.

Section 4 Duty to Disclose. In connection with any actual or possible conflicts of interest, an interested person must disclose the existence of his financial interest and all material facts to the directors and members of committees with board-delegated powers considering the proposed transaction or arrangement.

Section 5 Determining Whether a Conflict of Interest Exists. After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he shall leave the Board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The

remaining Board or committee members shall decide if a conflict of interest exists.

Section 6 Procedures for Addressing the Conflict of Interest.

- (a) An interested person may make a presentation at the Board or committee meeting, but after such presentation, he shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement that results in the conflict of interest.
- (b) The chairman of the Board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- (c) After exercising due diligence, the board or committee shall determine whether the Corporation can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.
- (d) If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Corporation's best interest and for its own benefit and whether the transaction is fair and reasonable to the Corporation and shall make its decision regarding whether to enter into the transaction or arrangement in conformity with such determination.

Section 7 Violations of the Conflicts of Interest Policy.

- (a) If the Board or committee has reasonable cause to believe that a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
- (b) If, after hearing the response of the member and making such further investigation as may be warranted in the circumstances, the Board or committee determines that the member has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

Section 8 Records of Proceedings. The minutes of the Board and all committees with board-delegated powers shall contain the following:

- (a) The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board or committee's decision regarding whether a conflict of interest in fact existed.

- (b) The names of the persons who were present for discussion and vote relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith.

Section 9 Compensation Committees.

- (a) A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.

- (b) Individuals who receive compensation, directly or indirectly, from the Corporation, whether as employees or independent contractors, are precluded from membership on any committee whose jurisdiction includes compensation matters. No individual, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Section 10 Annual Statements. Each director, officer and member of a committee with board-delegated powers shall annually sign a statement which affirms that such person:

- (a) has received a copy of the conflicts of interest policy;
- (b) has read and understands the policy;
- (c) has agreed to comply with the policy; and
- (d) understands that the Corporation is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Section 11 At the beginning of each fiscal year, each director, officer and employee shall file with the Chief Executive Officer a listing of all affiliations held by the individual, which shall include but not be limited to affiliations with non-profit organizations, affiliations with financial institutions and affiliations with businesses or corporations which might benefit from doing business with the Corporation.

Section 12 Periodic Reviews. Periodic reviews shall be conducted in order to determine as follows:

- (a) Whether compensation arrangements and benefits are reasonable and are the result of arms-length bargaining.
- (b) Whether partnership and joint venture arrangements and arrangements with service organizations conform to written policies, are properly recorded, reflect reasonable payments for goods and services, further the Corporation's charitable purposes and do not result in inurement or impermissible private benefit.

Section 13 Non-Permitted Activities. Notwithstanding any other provision of these bylaws, no member, director, officer or employee of this Corporation shall take any action or carry on any activity by or on behalf of the Corporation not permitted to be taken or carried on by an organization exempt under Section 501(c)(3) of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended, or by an organization contributions to which are deductible under Section 170(c)(2) of such Code and Regulations as they may exist or as they may hereafter be amended.

Section 14 Pecuniary Benefit Prohibited. No member, director, officer or employee of or member of a committee of the Corporation, or any other private individual shall receive at any time any of the net earnings or pecuniary profit from the operations of the Corporation, provided that this shall not prevent the payment to any such person such reasonable compensation for services rendered to or for the Corporation in effecting any of its purposes as shall be fixed by the Board of Directors; and no such person or persons shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the Corporation. All members of the Corporation shall be deemed to have expressly consented and agreed that upon such dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, the assets of the Corporation, after all debts have been satisfied, then remaining in the hands of the Board of Directors shall be distributed, transferred, conveyed, delivered and paid over, in such amounts as the Board of Directors may determine, subject to order of a Justice of the Supreme Court of the State of New York, exclusively to charitable, religious, scientific testing for public safety, literary or educational organizations which would then qualify under the provisions of Section 501(c)(3) of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended.

ARTICLE XII
INVESTMENT AND DEPOSIT POLICY

Section 1 Purpose. The purpose of the investment and deposit are to ensure that (i) investments of the Corporation are made in a prudent manner so as to safeguard the funds of the Corporation, (ii) investments are sufficiently liquid in order to allow funds to meet the projected needs of the Corporation, (iii) funds are invested in such a way as to earn the maximum yield given the first two objectives and (iv) there is a basis on which to review the overall performance of the funds. This Investment and Deposit Policy is designed to comply with Section 2824(e) of the New York State Public Authorities Law.

Section 2 Eligible Investments. The following shall be eligible investments of Corporation funds: (i) investments issued into depository accounts held in commercial or savings banks which are insured by the Federal Deposit Insurance Corporation (FDIC) to the extent allowed, and which do not exceed FDIC insurance limits, (ii) obligations of the United States Government consisting of bills, bonds and notes issued or payable by the United States Department of Treasury, (iii) obligations of federal agencies whose

principal and interest are guaranteed by the United States Government, (iv) commercial paper with a credit rating of “A” or better as published by Standard and Poor’s, Moody’s Investor Service or Fitch Ratings, (v) corporate bonds with a credit rating of “A” or better as published by Standard and Poor’s, Moody’s Investor Service or Fitch Ratings; provided that neither (iv) nor (v) individually comprises more than twenty-five percent (25%) of the Corporation’s investment portfolio and that there is at no time more than the lower of five percent (5%) of the Corporation’s investment portfolio or Fifty Thousand Dollars (\$50,000) invested in any one issuer.

Section 3 Ineligible Investments. The following shall be ineligible investments of Corporation funds: (i) stocks, (ii) commodities, (iii) foreign investments, (iv) futures, (v) real estate, except as specifically approved by the Board of Directors, (vi) private placements and (v) margin transactions.

Section 4 Oversight. The Board of Directors shall ensure qualified management supervision for the Corporation’s investment portfolio.

Section 5 Reporting. The Board of Directors will designate one of their number to (i) maintain an investment log detailing specific information relative to each investment (ii) prepare a monthly report of all existing investments for the Board of Directors, (iii) maintain continued communication with the investment manager and (iv) provide the investment manager with a monthly statement of commitments, availability and projected need of funds. The Board of Directors will review the performance of the investment portfolio on a semi-annual basis.

ARTICLE XIII PROCUREMENT POLICY

Section 1 Purpose. This Procurement Policy is designed to comply with Section 2824(e) of the New York State Public Authorities Law.

Section 2 Classes of Goods and Services. A “Class A” purchase shall be one in which the goods or services purchased total a value of Two Thousand Five Hundred Dollars (\$2,500) or less payable by the Corporation. A “Class B” purchase shall be one in which the goods or services purchased total a value of more than Two Thousand Five Hundred Dollars (\$2,500) but less than Ten Thousand Dollars (\$10,000) payable by the Corporation. A “Class C” purchase shall be one in which the goods or services purchased total a value of more than Ten Thousand Dollars (\$10,000) payable by the Corporation.

Section 3 Procurement Policies.

- (a) For a Class A purchase, the Corporation shall seek a verbal or written quotation from the provider or providers of the good or service that best meets the standards of efficiency, timeliness, practicality and convenience for obtaining the good or service. A price quote from a single vendor may be sufficient.

- (b) For a Class B Purchase, the Corporation shall seek written quotations from not less than three vendors, if available, and shall select the least expensive vendor from those who respond to the request for quotations and who meets all relevant criteria.
- (c) For a Class C Purchase, the Corporation shall follow a competitive bid process with a written request for proposal. The competitive bid process will consist of the solicitation from not less than three vendors and, the contract will be awarded to the least expensive vendor from those who respond to the request for quotations and who meets all relevant criteria.

Section 4 Exceptions.

- (a) The Corporation may award a contract to a vendor other than the least expensive vendor in the event the Corporation determines that another vendor would be better suited to provide the goods or services because of circumstances which include, but are not limited to, more favorable delivery terms, more favorable warranty terms, better quality or service, favorable past dealings with the Corporation or specialized expertise.
- (b) The Corporation may, in the case of any purchase which would otherwise require a competitive process, award a contract to a vendor without a competitive process in the event any delay caused by soliciting multiple vendors would endanger the health, welfare or property of the Corporation, its employees or other persons. Such exception must thereafter be ratified by the Board of Directors.
- (c) The Corporation may, in the case of any purchase which would otherwise require a competitive process, award a contract to a vendor without a competitive process in the event the Board of Directors by resolution determines that such a process would be impracticable.
- (d) The Corporation may, in the case of any purchase which would otherwise require a competitive process, award a contract to a vendor without a competitive process in the event the Board of Directors by resolution determines that there is only one possible source from which to procure goods and/or services and it is shown that the item needed has unique benefits, the cost is reasonable for the product offered and there is no competition available.

Section 5 Documentation. For each purchase made the Chief Executive Officer or authorized designee shall set forth in writing the class of procurement that is being made and what method of procurement is specified, as well as any basis for any exception set forth above.

Section 6 Unintentional Failure to Comply. The unintentional failure to comply with the provisions of this Article shall not be grounds to void action taken or give rise to a cause of action against the Corporation or any director or employee thereof.

Section 7 Local Preference. The Corporation, to the extent practicable, shall use suppliers of goods and services within the City of Utica, and those surrounding the City of Utica which contribute substantially to the economy of the City of Utica.

ARTICLE XIV
DISPOSITION POLICY

Section 1 Purpose. This Disposition Policy is designed to comply with Section 2824(e) of the New York State Public Authorities Law.

Section 2 Definitions. As used in this Article, the following definitions shall apply:

- (a) “Dispose” or “disposal” shall mean transfer of title or any other beneficial interest in personal or real property in accordance with section 2897 of the Public Authorities Law.
- (b) “Property” shall mean personal property in excess of five thousand dollars (\$5,000) in value, and real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

Section 3 Duties. The Corporation shall

- (a) maintain adequate inventory controls and accountability systems for all property owned by the Corporation and under its control;
- (b) periodically inventory such property to determine which property shall be disposed of;
- (c) transfer or dispose of such property as promptly and practicably as possible in accordance with this Article;
- (d) publish, not less frequently than annually, a report listing all real property owned in fee by the Corporation, which report shall consist of a list and full description of all real and personal property disposed of during such period and the price received by the Corporation and the name of the purchaser for all such property; and
- (e) deliver copies of such report to the Comptroller of the State of New York, the Director of the Public Authorities Budget Office of State of New York, the Commissioner of the New York State Office of General Services, and the New York State Legislature via distribution to the majority leader of the senate and the speaker of the assembly).

Section 4 Transfer or Disposition of Property.

- (a) Supervision and Direction. Except as otherwise provided herein, the Chief Executive officer shall have supervision and direction over the disposition and sale of property of the Corporation. The Corporation shall have the right to dispose of its property for any valid corporate purpose.
- (b) Custody and Control. The custody and control of Corporation property, pending its disposition, and the disposal of such property, shall be performed by the Corporation or by the Commissioner of General Services when so authorized under this section.
- (c) Method of Disposition. Unless otherwise permitted, the Corporation shall dispose of property for not less than its fair market value by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Corporation deems proper. The Corporation may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this section. Provided, however, except in compliance with all applicable law, no disposition of real property, any interest in real property, or any other property which because of its unique nature is not subject to fair market pricing shall be made unless an appraisal of the value of such property has been made by an independent appraiser and included in the record of the transaction.
- (d) Sales by the Commissioner. When the Corporation shall have deemed that transfer of property by the Commissioner of General Services (the “Commissioner”) will be advantageous to the State of New York, the Corporation may enter into an agreement with the Commissioner, pursuant to which the Commissioner may dispose of property of the Corporation under terms and conditions agreed to by the Corporation and the Commissioner. In disposing of any such property, the Commissioner shall be bound by the terms of this Article and references to the Chief Executive Officer under this Article shall be deemed to refer to such Commissioner.
- (e) Validity of Deed, Bill of Sale, Lease, or Other Instrument. A deed, bill of sale, lease, or other instrument executed by or on behalf of the Corporation, purporting to transfer title or any other interest in property of the Corporation in accordance herewith shall be conclusive evidence of compliance with the provisions of these guidelines and all applicable law insofar as concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to the closing.
- (f) Bids; Advertising; Procedure; Disposal by Negotiation; Explanatory Statement.

- (i) Except as permitted by law, all disposals or contracts for disposal of property made or authorized by the Corporation shall be made after publicly advertising for bids except as provided in subsection (iii) hereof.
- (ii) Whenever public advertising for bids is required under subsection (i) of this Section (f), the advertisement for bids shall be made at such time prior to the disposal or contract, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the property proposed for disposition, all bids shall be publicly disclosed at the time and place stated in the advertisement and the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Corporation, price and other factors considered; provided, that any and all bids may be rejected at the Corporation's discretion.
- (iii) Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to subsections (i) and (ii) of this Section (f) but subject to obtaining such competition as is feasible under the circumstances, and in the case of items (A) through (D) below, obtaining fair market value, if: (A) the personal property involved is of a nature and quantity which, if disposed of under subsections (i) and (ii) of this Section (f), would adversely affect the state or local market for such property, and the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation; (B) the fair market value of the property does not exceed Fifteen Thousand Dollars (\$15,000); (C) bid prices, after advertising therefor, are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition; (D) the disposal will be to the state or any political subdivision, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation; (E) the disposal is for an amount less than the estimated fair market value of the property, the terms of such disposal are obtained by public auction or negotiation, the disposal of the property is intended to further the public health, safety or welfare or an economic development interest of the Corporation, the state or a political subdivision (to include but not limited to, the prevention or remediation of a substantial threat to public health or safety, the creation or retention of a substantial number of job opportunities, or the creation or retention of a substantial source of revenues, or where the Corporation's enabling legislation permits or other economic development initiatives), the purpose and the terms of such disposal are documented in writing and approved by resolution of the board of the Corporation; or (F) such action is otherwise authorized by law.
- (iv) An explanatory statement shall be prepared of the circumstances of each disposal by negotiation of: (i) any personal property which has an estimated fair market value in excess of Fifteen Thousand Dollars (\$15,000); (ii) any real property that has an estimated fair market value in

excess of One Hundred Thousand Dollars, except that any real property disposed of by lease or exchange shall only be subject to clauses (iii) through (v) of this subparagraph; (iii) any real property disposed of by lease for a term of five (5) years or less, if the estimated fair annual rent is in excess of One Hundred Thousand Dollars (\$100,000) for any of such years; (iv) any real property disposed of by lease for a term of more than five (5) years, if the total estimated rent over the term of the lease is in excess of One Hundred Thousand Dollars (\$100,000); or (v) any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property. Each such statement shall be transmitted to the persons entitled to receive copies of the report required under all applicable law not less than ninety (90) days in advance of such disposal, and a copy thereof shall be preserved in the files of the Corporation making such disposal.

ARTICLE XV
WHISTLEBLOWER POLICY

Section 1 Purpose. This Whistleblower Policy is designed to comply with Section 2824(e) of the New York State Public Authorities Law.

Section 2 Policy. No officer, director, employee, agent or other affiliate of the Corporation shall take any harmful action with the intent to retaliate against any person, including interference with employment or livelihood, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any offense. Nor will any officer, director, employee, agent or other affiliate of the Corporation take any harmful action with intent to retaliate against any officer, director, employee, agent or other affiliate of the Corporation for reporting to the President the suspected misuse, misallocation or theft of any Corporation resources. Consistent with this policy, the Corporation's officers, directors, employee, agents and other affiliates are encouraged to come forward with credible information on illegal practices or violations of law or adopted policies of the Corporation by providing such information to the President or his designees.

ARTICLE XVI
AMENDMENT

These by-laws may be amended, altered or repealed at any meeting of the Board of Directors by a vote of a majority of all Directors, provided that the action to be considered and acted upon is inserted in the notice or the waiver of notice of said meeting; provided further that these by-laws may not be amended in any way with the intent, or which would have the effect, of circumventing or violating any law.

ARTICLE XVII
PUBLIC AUTHORITIES LAW

The Corporation will be subject to the New York State Public Authorities Law, the Public Authorities Accountability Act of 2005 and the Public Authorities Reform Act of 2009, each as amended (collectively, the “Act”). The Corporation will be required to, among other things, (i) undergo annual independent audits and submit the results thereof to the member and the New York State Public Authorities Budget Office, (2) prepare and submit its annual budget to the member and the New York State Public Authorities Budget Office, (3) adopt various ethical, reporting, property disposition and disclosure policies required by the Act to the extent not otherwise set forth herein, and (4) form governance and audit committees to ensure the Corporation is in compliance with the Act and any other applicable laws, to the extent not otherwise set forth herein.