

**BYLAWS OF THE
DELAWARE COUNTY LOCAL DEVELOPMENT CORPORATION
(A New York Not-for Profit Corporation)**

**ARTICLE I
THE CORPORATION**

SECTION 1.1. Name and Organization. The name of the corporation is the "Delaware County Local Development Corporation" hereinafter referred to as the "Corporation". The Corporation is a Type C corporation under Section 201 of the Not-For-Profit Corporation Law, defined in subparagraph (a)(5) of Section 102 (Definitions) and is a local development corporation pursuant to Section 1411 of said Law. The Delaware County Local Development Corporation's Certificate of Incorporation was filed by the Department of State on August 21, 1998, under Section 402 of the New York State Not-For-Profit Corporation Law

SECTION 1.2. Offices. The principal office of the Corporation shall be located in Delaware County, State of New York, at such places as the Corporation may designate or the affairs of the Corporation may, from time to time, require.

SECTION 1.3. Designated Agent. The Secretary of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The Post Office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him/her as agent of the Corporation is Delaware County Local Development Corporation, 97 Main Street, Suite 1, Delhi, New York 13753.

**ARTICLE II
STATEMENT OF PURPOSES AND POWERS**

SECTION 2.1. Purposes. The Corporation is organized and operated exclusively for charitable or public purposes of relieving and reducing adult unemployment, promoting and providing for additional and maximum adult employment, bettering and maintaining adult job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding Delaware County by attracting new industry to said county or by encouraging the development of, or retention of industry in the said area, and lessening the burdens of government and acting in the public interest and all other lawful functions. The Corporation shall have all the powers conferred by Sections 202(a) and 1411(c) of the Not-For-Profit Corporation Law.

The Corporation may do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof, but not for the pecuniary profit or financial gain of its Members, Directors, or Officers, except as permitted under Articles 5 and 14 of the Not-For-Profit Corporation Law and Article 8 of the Public Authorities Law.

Nothing herein contained shall authorize or empower the Corporation, directly or indirectly, to engage in or include among its purposes any of the activities mentioned in Section 404 of the Not-For-Profit Corporation Law or Section 460-a of the Social Services Law.

Nothing herein contained shall authorize or empower the Corporation, directly or indirectly, to engage in or include among its purposes any activity prohibited by New York General Business Law, Section 340, or any other New York anti-monopoly law, and the Corporation is not authorized so to engage.

SECTION 2.2. Limitations. Notwithstanding any other provisions of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986 (or corresponding provision of any future United State Internal Revenue Law) or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law).

No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Section 501(h) of the Code) or participating in, or intervening in (including by the publication or distribution of statements), any political campaign on behalf of, or in opposition to, any candidate for public office.

ARTICLE III MEMBERS

SECTION 3.1. Qualifications and Number. The Corporation shall have one class of members who serve as the Board of Directors. The members, from time to time, of the County of Delaware Industrial Development Agency shall be eligible for membership in the Corporation. The Corporation shall consist of seven (7) members. Each Member shall be a resident of Delaware County.

SECTION 3.2. General Powers. Subject to the provisions of the New York Not-For-Profit Corporation Law, the property and affairs of the Corporation shall be managed by its Board of Directors, which may exercise all such authority and powers of the Corporation and do all such lawful acts and things as permitted by Law.

SECTION 3.3. Appointments/ Terms. The appointment of each board member shall be at the pleasure of the Delaware County Board of Supervisors. The term of office of each Board Member of the Corporation shall be three (3) years, at which time the Board Member may be reappointed by the Delaware County Board of Supervisors. In instituting term limits, the terms of appointment of Corporation Board Members may be staggered to aid in the transition and continued functioning of the Corporation.

SECTION 3.4. Resignation. Any Member may resign at any time by giving written notice of his or her resignation to the Secretary. Any such resignation shall take effect at the time specified therein or, if no time is specified, immediately upon receipt; the acceptance of such resignation shall not be necessary to make it effective.

SECTION 3.5. Vacancies. If a vacancy should occur, for any reason, the Corporation will request the Board of Supervisors appoint a member to fill the unexpired term of the vacancy.

SECTION 3.6 Removal. Any Member(s) may be removed for cause by a majority vote of all of the Members at a meeting of a quorum of the Members that Members have been duly notified, as in Sections 5.5 and 5.6. Removal for cause shall include, but not be limited to, (i) failure to fulfill the duties of a member, as evidenced by unexcused absence for three consecutive meetings without notice to the Chairman, Executive Director or Secretary, (ii) violation of the Corporation's Code of Ethics, after notice and opportunity to cure, (iii) actions inconsistent with the interests or purposes of the Corporation, or (iv) and other actions in violation of the Bylaws or other laws and regulations. At least ten (10) days notice of the grounds for removal shall be given each Director, and such Director shall be given the opportunity to be heard by the Corporation at a meeting, as described above, prior to removal.

SECTION 3.7. Compensation of Directors. The Members shall serve without compensation, except that Members may be reimbursed for their actual expenses for attendance at meetings of the Corporation and committees thereof and other expenses furtherance of the Corporation's affairs, pursuant to written policies established from time to time by resolution of the Corporation. Such policies shall be consistent with the Corporation's Code of Ethics.

ARTICLE V OFFICERS

SECTION 4.1. Officers. The Board of Directors, at its annual meeting, shall elect a Chairman, Vice Chairman, Secretary and Treasurer and, by resolution, may appoint an Executive Director and such other employees as it may deem desirable. The Board may elect to contract with the County, the Industrial Development Agency or any other municipal or public entity to provide for the services of an executive director or other staff.

SECTION 4.2. Chairman. The Chairman shall preside at all meetings of the Board of Directors. The Chairman shall execute all contracts and other documents on behalf of the Corporation unless otherwise specified by the Board and shall do and perform such other duties as be assigned to him/her by the Board of Directors. At each meeting of the Corporation, the Chairman shall submit such recommendations and information as he/she may consider proper concerning the business, affairs, and policies of the Corporation.

SECTION 4.3. Vice Chairman. The Vice Chairman shall perform the duties of the Chairman in the absence or incapacity of the Chairman. In the event of the resignation or death of the Chairman, the Vice Chairman shall become Acting Chairman and perform the duties of the Chairman until such time as the Corporation shall elect a new Chairman.

SECTION 4.4. Secretary. The Secretary shall keep the records and proceedings of the Corporation and shall perform all duties incident to this office. The Secretary shall have the power to affix such seal to all contracts and other documents authorized to be executed by the Corporation.

SECTION 4.5. Treasurer. The Treasurer, subject to the direction of the Board of Directors, shall have charge of the funds, securities, receipts and disbursements of the Corporation and shall deposit the Corporation's funds in the name of the Corporation in such banks as the Corporation shall select. All disbursements shall be approved by a majority vote at a meeting of quorum of all the Directors and signed or drawn on behalf of the Corporation by any one (1) of the following agents: Executive Director, Chairman, Treasurer; except that withdrawals for \$5,000 or more will require two (2) signatures, one of which may be the administrative assistant (recording secretary). The Treasurer shall keep regular books of accounts showing receipts and expenditures, and shall render to the Corporation at each regular meeting an account of his/her transactions and also of the financial condition of the Corporation. Bond or insurance for his faithful performance of his/her duties shall be determined and provided by the Corporation.

SECTION 4.6. Executive Director. The Corporation may appoint and employ an Executive Director. The Executive Director shall serve at the pleasure of the Corporation and shall have the responsibility and authority for carrying out the policies and purposes adopted and approved by the Corporation. The Executive Director shall manage the day to day affairs of the Corporation, recruit and hire staff, recommend an annual operating budget, evaluate programs, pursue funding operations, and shall identify potential new areas of service for recommendation to the Board of Directors. The Corporation, from time to time, may authorize the Executive Director to execute contracts and sign financial instruments.

SECTION 4.7. Election of Officers. All Officers of the Corporation shall be elected at the annual meeting of the Corporation from among its members and hold office for one year. Officers shall be elected by a majority vote at a meeting of a quorum of members.

SECTION 4.8. Vacancies. Should an office become vacant, the Corporation shall elect a successor from among its membership at the next regular meeting, in the manner prescribed in Section 4.1 and such appointment shall be for the unexpired term of said office.

ARTICLE V MEETINGS

SECTION 5.1. Annual Meeting. The annual meeting of the Corporation shall be held yearly, before the 15th of January, at such time and place as determined by the Corporation. At each annual meeting, the members shall elect Officers and transact such other business as is within the power of the Corporation.

SECTION 5.2. Regular Meetings. Regular meetings shall be held at such times and places as, from time to time, determined by the Corporation.

SECTION 5.3. Special Meetings. Special meetings of the Corporation may be called by a majority of the Board, by the Chairman, or written request of two of the Board Members for the purpose of transacting any business designated in the call. The call for a special meeting may be delivered to each Member or may be mailed to the business or home address of each Member at least two days prior to the date of such special meeting. Waivers of notice may be signed by any members failing to receive a proper notice. At such special meeting, no business shall be considered other than the designated call, but, if all members of the Corporation are present at a special meeting,

with or without notice thereof, any and all business may be transacted at such special meeting. At such special meeting, no business shall be considered other than as designated in the call, but if all the members of the Corporation are present at a special meeting, with or without notice thereof, any and all business may be transacted at such special meeting.

SECTION 5.4. Executive Session. When determined by the Corporation that any matter pending before it is confidential in nature, it may, upon its own motion, establish an executive session in accordance with the NYS Open Meetings Law and exclude non-members from such session.

SECTION 5.5. Notice of Corporation Meetings. Written notice, stating the place, date, and hour of the meeting and purpose(s) for which the meeting is called, shall be given to each Board Member, either personally or by First Class Mail, addressed to such Member with postage prepaid, not less than five (5) days before the date of any meeting. Any requirements of furnishing notice shall be waived by any Member who submits a signed waiver of notice before or after the meeting or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to him or her.

SECTION 5.6. Quorum. At all meetings of the Corporation, a majority of the total members of the Corporation shall constitute a quorum for the purpose of transacting business. A majority of those present may meet and adjourn to some other time or until the quorum is obtained. Notice of any such adjournment need not be given to any Members who were present if the time and place thereof are announced at the meeting at which the adjournment is taken. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting originally scheduled.

SECTION 5.7 Actions. The voting on all issues coming before the Corporation may be by voice vote and the yeas and nays shall be entered on the minutes of such meeting, except in the case of appointments and elections when the vote shall be by ballot. The Corporation shall decide which questions coming before the Corporation require a roll call vote. Any action of the Corporation shall be binding upon determination by a majority vote at a meeting of a quorum of the Board of Directors. Each Member shall be entitled to one vote.

SECTION 5.8 Actions Without a Meeting. Any action required or permitted to be taken by the Corporation, may be taken without a meeting if all Members (7) consent in writing to the adoption of a resolution authorizing the action, and the written consents thereto by the Board Members of the Corporation shall be filed with the minutes of the proceedings of the Corporation.

SECTION 5.9. Action by Conference Call. Any one or more members of the Committee or any committee thereof may participate in a meeting of said Corporation or committee by means of a conference telephone call or similar communications equipment allowing all persons participating at the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

SECTION 5.10. Conduct of Meetings. The Chairman, if present, shall preside at all meetings. Otherwise the Vice Chairman, if present, or, if neither of the foregoing is present, any other Member chosen by the Members of the Corporation present, shall preside. Except as

otherwise provided in these Articles or by statute, "Roberts's Rules of Order Revised" shall govern the conduct of all meetings.

ARTICLE VI CONTRACTS, RECORDS AND FISCAL MATTERS

SECTION 6.1. Books and Records. The Corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of the Corporation and any committee which the Members may appoint. Any of the foregoing books, minutes or records may be in written form or in any other form capable of being converted into written form within a reasonable time.

SECTION 6.2. Bank Accounts. The Corporation may from time to time authorize the opening and maintenance of general and special bank accounts with such banks, trust companies or other depositories as the Board of Directors may designate. The Board of Directors may make such special rules and regulations regarding the management of these accounts, not inconsistent with these Articles, as may deem expedient.

SECTION 6.3. Investments. The funds of the Corporation may be retained in whole or in part in cash or be invested from time to time in such property, real, personal, or otherwise, including stocks, bonds or other securities, as the Members may deem desirable. The Corporation shall comply with the provisions of the Corporation's Investment Policy, as amended from time to time.

SECTION 6.4. Checks, Drafts or Orders of Payment. All checks, drafts, and orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall, after approval of the Members by resolution, be signed by such Officers or agents of the Corporation and such manner as provided in Resolution No. 102, dated October 9, 2001, and as may be amended from time to time.

SECTION 6.5 Contracts. The Corporation may authorize by resolution any Officer(s), agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

SECTION 6.6 Fiscal Year. The fiscal year of the Corporation shall be January 1 to December 31, unless otherwise determined by the Corporation. The Corporation shall maintain records according to such special fiscal years as may be required by the Corporation's funding entities.

ARTICLE VII STANDARD OF CARE

SECTION 7.1. Duty of Members and Officers. Members and Officers shall discharge the duties of their respective positions in good faith and with the degree of diligence, care

and skill which ordinarily prudent (wo)men would exercise under similar circumstances in like positions.

SECTION 7.2 **Reliance's in Good Faith.** In discharging their duties, Members and Officers, when acting in good faith, may rely on information, opinions, reports or statements, including financial statements and other financial data, in each case presented by, (I) one or more Officers or employees of the Corporation whom the Member believes to be reliable and competent in the matters presented, (ii) counsel, public accountants, or other persons as to matters which the Members or Officers believe to be within such person's professional or expert competence, or (iii) a committee of the Corporation upon which they do not serve, which committee the Members and Officers believe to merit confidence, so long as in so relying they shall be acting in good faith and with that degree of care specified Article VI, Section 1. Persons shall not be considered to be acting in good faith if they have knowledge concerning the matter in question that would cause such reliance to be unwarranted.

ARTICLE VIII CODE OF ETHICS

SECTION 8.1. **Disclosure Required.** No Officer, Member, employee of the Corporation ("Interested Person") shall engage in any activity or acquire any business investment or financial interest, either directly or indirectly, which conflicts in any manner with the best interests of the Corporation or which interferes with or impedes an Interested Person's ability to perform his/her duties in good faith and in the best interests of the Corporation unless

- i) the material facts as to such Interested Person's interest are disclosed in good faith or known to the Corporation; and
- ii) the Corporation authorizes or approves such contract or transaction by a vote sufficient for such purpose without counting the vote of the Interested Person.

Any contract or transaction entered into in violation of this provision shall be voidable by the Corporation.

SECTION 8.2. **Guidelines.** Without limiting anything in Section 8.1, the following shall be a violation of the Corporation's Code of Ethics unless fully disclosed and authorized or approved in accordance with Article VIII.

- i) The ownership or acquisition, directly or indirectly, of any business investment or financial interest in any entity in which the Corporation holds an interest, or which has current or known prospective business dealings with the Corporation.
- ii) The ownership or acquisition, directly or indirectly, of any interest in real property or personal property in which the Corporation holds an interest.

- iii) The acceptance by any Interested Person or a member of his/her immediate family, directly or indirectly, of loans, subsidy payments or other financial assistance provided through any of the Corporation's programs.
- iv) The solicitation or acceptance, either directly or indirectly, of any payment, loan, gift, gratuity, discount or other thing of value from any entity in which the Corporation holds an interest, or from any person or entity which has current or knows of prospective business dealings with the Corporation. The solicitation for, or acceptance of, a contribution by the Corporation from any person or entity shall not be deemed a business dealing. The acceptance of any payments, loans, gifts, gratuity, discount or other thing of value from any person or entity which is of nominal value (less than \$75) and within business practices shall not constitute a violation of this guideline.
- v) The diversion of any business opportunity of the Corporation, or the participation in any business opportunity with knowledge of the fact that such business opportunity has been or will be submitted or presented to the Corporation, whether or not the same is ultimately rejected by the Corporation.

SECTION 8.3 Procedures. If a conflict of interest is relevant to a matter requiring action by the Corporation, the Interested Person shall bring it to the attention of the Board of Directors and shall provide all relevant information. The Interested Person should not be present in the room during, and should not participate in, the deliberation, decision or vote on the matter under consideration.

A copy of this Code of Ethics shall be given to each Officer, Member and employee of the Corporation.

SECTION 8.4. Loans Prohibited. No loans, other than through the purchase of bonds, debentures, or similar obligations of the type customarily sold in public offerings, or through ordinary deposit of funds in a bank, shall be made by the Corporation to any Officer or Member or to a corporation, firm, association or other entity in which an Officer or Member has a financial interest.

SECTION 8.5 Interest in Programs Prohibited. No Officer nor Member may be an officer or employee of an organization (other than a municipality, public benefit corporation or political jurisdiction) which has a contract with the Corporation.

ARTICLE IX INDEMNIFICATION

SECTION 9.1. Non-Liability of Directors and Officers. No Member nor Officer shall be personally liable to the Corporation's own behalf nor for the benefit of the Corporation's creditors for damages for any breach of duty as a Member or Officer; provided, however, that the foregoing shall not eliminate or limit the liability of a Member or Officer of a judgement or other final adjudication adverse to such Member or Officer established that such Member's or Officer's acts were committed in bad faith or where the result of active or deliberate dishonesty and were

material to the cause of action so adjudicated, or that such Member or Officer personally gained in fact a financial profit or other advantage to which he or she was not legally entitled.

SECTION 9.2. Indemnification and Defense. If a Member or Officer of the Corporation is made or is threatened to be made, a party to any action, suit, or proceeding, whether civil or criminal (including without limitation actions or proceedings of an administrative or investigative nature), in any matter arising from the fact that such person, his testator or intestate, was a Member or Officer of the Corporation, or served any other entity in any capacity, the Corporation shall:

- i) Promptly upon written request to the Corporation, by or in behalf of, any Member or Officer therefor, undertake the defense of any such action or proceeding for the benefit of such Member or Officer, at the Corporation's expense, subject to the right granted to such Member or Officer hereby to select legal counsel of his or her reasonable choice and/or to participate in his or her own defense.
- ii) Indemnify such Member or Officer against all sums paid by him / her in the way of judgements, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees actually and necessarily incurred as a result of such action or proceeding, or any appeal therein, subject to the proper application of credit for any sums advanced to the Member or Officer pursuant to clause i) of this paragraph.

Such right of indemnification shall be a contract right that may be enforced in any manner desired by such Member or Officer. Such right of indemnification shall not be exclusive of any other right that such Member or Officer shall be entitled to his / her rights of indemnification under any agreement, resolution of members, provision of law or otherwise, as well as his / her rights under these Articles.

The indemnification provided for in this Article IX may apply whether or not the claim asserted is based on matters which antedate the adoption of this By Law and may continue as to a person who has ceased to be a Member, Officer or agent and may inure to the benefit of the heirs and personal representatives of such person.

SECTION 9.3. Insurance. To the extent not prohibited by law, the Corporation may purchase and maintain insurance to indemnify the Corporation and its Members and Officers.

ARTICLE X AMENDMENT OF BY LAWS

These Bylaws and any amendment thereof may be amended or repealed and additional Bylaws may be adopted at any meeting of the Corporation at which a quorum is present, with the approval of a majority of all of the Members, but no amendment shall be adopted unless at least five days written notice thereof has been previously given to all members of the Corporation.

**ARTICLE XII
DISSOLUTION**

In the event of dissolution of the Corporation, all of the remaining assets and property of the Corporation, after payment of necessary expenses thereof and payment or adequate provision for all known liabilities as may be required by law, shall become the property of the County of Delaware in a manner consistent with the New York State Not-For-Profit Corporation Law.

These revised Bylaws are resolved and entered into the official record of the Minutes of this day, the 21st Day of August 2002, of the Delaware County Local Development Corporation and will replace all previous Bylaws and Amendments thereto.

SS:

_____ *George Bergleitner, Jr., Secretary*

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