

BY-LAWS
SCHENECTADY COUNTY CAPITAL RESOURCE CORPORATION

ARTICLE I — THE CORPORATION

Section 1. Name. The name of the Corporation shall be the “Schenectady County Capital Resource Corporation”.

Section 2. Corporate Seal of the Corporation. The corporate seal of the Corporation shall be in the form of a circle and shall bear the name of the Corporation and the year of its organization.

Section 3. Office of the Corporation. The office of the Corporation is to be located in the County of Schenectady at such place or places as the Corporation may from time to time designate by resolution.

Section 4. Execution of Instruments. Except as otherwise provided in these bylaws, instruments and documents of the Corporation may be signed or countersigned, executed, verified or acknowledged by such officer or officers of the Corporation or other person or persons as the members of the Corporation may designate by resolution.

ARTICLE II — MEMBER, DIRECTORS AND OFFICERS OF THE BOARD

Section 1. Sole Member. Schenectady County, New York (the “County”) is the sole member of the Corporation.

Section 2. Board of Directors. (A) The Corporation will consist of not less than three nor more than seven Directors. The Directors will be appointed by and serve at the pleasure of the governing body of the County and will include (a) the Chairman of Schenectady County Industrial Development Agency, (b) the Vice-Chairman of Schenectady County Industrial Development Agency, (c) the Treasurer of Schenectady County Industrial Development Agency, and (d) any additional members of Schenectady County Industrial Development Agency so appointed as Directors.

(B) Except for Directors who serve as Directors by virtue of holding a civil office of the State, the majority of the remaining Directors appointed after January 13, 2006 will be “Independent Directors.”

(C) For purposes of these by-laws, the term “Independent Director” means a Director one who: (1) is not, and in the past two years has not been, employed by the Corporation (or an “Affiliate” of the Corporation) in an executive capacity; (2) is not, and in the past two years has not been, employed by an entity that received remuneration valued at more than \$15,000 for goods and services provided to the Corporation or received any other form of financial assistance valued at more than \$15,000 from the Corporation; (3) is not a relative of an executive officer or employee in an executive position of the Corporation (or an “Affiliate” of the Corporation); and (4) is not, and in the past two years has not been, a lobbyist registered under a state or local law

and paid by a client to influence the management decisions, contract awards, rate determinations or any other similar actions of the Corporation (or an “Affiliate” of the Corporation).

- (D) For purposes of these by-laws, the term “Affiliate” means a corporate body having substantially the same ownership or control as the Corporation.
- (E) For purposes of these by-laws, the term “Relative” means an individual's spouse, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of the individual or of the individual's spouse.

Section 3. Term of Service. Directors are not subject to term limits. Each Director is appointed by and serves at the pleasure of the Schenectady County Legislature. Accordingly, a Director may be removed without cause at any time for any reason.

Section 4. Filling of Vacancies. Should any Director position become vacant, the Corporation will take steps to recommend to the Schenectady County Legislature one or more nominees to fill the vacancy. The decision to appoint a particular individual as a Director rests solely with the Schenectady County Legislature.

Section 5. Responsibilities of Directors; (A) The Directors of the Corporation constitute the governing body of the Corporation (the “Board”), and shall have and shall responsibly exercise all of the powers prescribed by the Act and other applicable law, including but not limited to Chapter 766 of the 2005 Laws of the State of New York (the “Public Authority Accountability Act”).

- (B) The Board shall appoint an Executive Director and a Chief Financial Officer of the Corporation, neither of whom shall be a Director of the Corporation.
- (C) The Directors of the Corporation shall: (1) execute direct oversight of the Executive Director of the Corporation and other senior management of the Corporation in the effective and ethical management of the Corporation; and (2) understand, review and monitor the implementation of fundamental financial and management controls and operational decisions of the Corporation.

Section 6. Officers of the Board. (A) Except as otherwise provided in these bylaws, each officer of the Board must be a Director of the Corporation. All officers of the Board (except the first Chairman) shall be appointed at the annual meeting of the Board from among the Directors. All officers of the Board shall remain in office for one year. Any two or more offices of the Board, except the offices of Chairman and Secretary, may be held by the same person. If two or more Directors hold similar offices (for example, two Vice Chairmen are appointed), one of those Directors shall be designated as “first”, the next shall designated as “second”, and so forth. Such officers shall act in the order of their designation.

- (B) The officers of the Board shall be a Chairman, one or more Vice Chairmen, a Secretary, one or more Assistant Secretaries, a Treasurer, and one or more Assistant Treasurers.
- (C) The officers of the Board shall perform the duties and functions specified in these bylaws and such other duties and functions as may from time to time be authorized by resolution of

the Board of the Corporation or required to effect the statutory purposes of the Corporation.

- (D) Should any office of the Board become vacant, the Corporation shall appoint a successor from among its Directors at the next regular meeting, and such appointment shall be for the unexpired term of said office.

Section 7. Chair. (A) The Chair of the Corporation shall preside at all meetings of the Board.

- (B) Except as otherwise authorized by resolution of Board, the Chair shall execute all instruments and documents of the Corporation, including all instruments of indebtedness. The Chair shall have the authority, at all times, to execute, on behalf of the Corporation, instruments and documents of a ministerial or procedural nature which the Chair deems expedient in order to further the statutory purposes of the Corporation, provided the execution of such instruments and documents does not contravene any provision of these bylaws or any resolution of the Board.

Section 8. Vice Chair. The Vice Chair of the Corporation shall perform the duties of the Chair in the absence or incapacity of the Chair; and in case of the resignation or death of the Chair, the Vice Chair shall perform such duties as are imposed on the Chair until such time as the Board shall appoint a new Chair.

Section 9. Secretary. (A) The Secretary of the Corporation shall keep the records of the Board, shall act as secretary at the meetings of the Board and record all votes of the Board, shall keep a record of the proceedings of the Board in a journal of proceedings to be kept for such purposes, and shall perform all duties incident to the office of Secretary of the Corporation.

- (B) The Secretary of the Corporation shall keep in safe custody the corporate seal of the Corporation and shall have the power to affix such corporate seal to all instruments and documents authorized to be executed by the Corporation. When a facsimile corporate seal is authorized to be used, the Secretary of the Corporation shall have the power to approve the manner and fashion of such facsimile and authorize such minor variations as are expedient to implement the process by which such facsimile is created.

Section 10. Assistant Secretary. The Assistant Secretary of the Corporation shall perform the duties of the Secretary in the absence or incapacity of the Secretary; and in case of the resignation or death of the Secretary, the Assistant Secretary shall perform such duties as are imposed on the Secretary until such time as the Board shall appoint a new Secretary.

Section 11. Treasurer. (A) The Treasurer of the Corporation shall be an Independent Director of the Board.

- (B) The Treasurer of the Corporation shall be the chair of the Audit Committee of the Corporation.

Section 12. Assistant Treasurer. (A) The Assistant Treasurer of the Corporation shall be an Independent Director of the Board.

- (B) The Assistant Treasurer of the Corporation shall perform the duties of the Treasurer in the absence or incapacity of the Treasurer; and in the case of the resignation or death of the Treasurer, the Assistant Treasurer shall perform such duties as are imposed on the Treasurer until such time as the Board shall appoint a new Treasurer.

ARTICLE III — MEETINGS OF THE BOARD

Section 1. Annual Meeting. The first meeting of the Board held during the month of March of each year (or if no meeting of the Corporation shall be held during the month of March, then the next meeting of the Directors of the Corporation held after the month of March) shall be the annual meeting of the Corporation.

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

Section 3. Special Meetings. The Chair of the Corporation may, when the Chair deems it desirable, and the Chair and the Secretary shall, upon the written request of any two Directors of the Corporation, call a special meeting of the Board for the purpose of transacting any business designated in the call. The call for a special meeting may be delivered to each Director of the Corporation, mailed to the business or home address of each Director of the Corporation or delivered by telephone to each Director of the Corporation at least two days prior to the date of such special meeting. Waivers of notice may be signed by any Directors failing to receive proper notice of a special meeting. At such special meeting no business shall be considered other than as designated in the call, but if all the Directors 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 4. Quorum. At all meetings of the Board, a majority of the Directors of the Corporation shall constitute a quorum for the purpose of transacting business; provided that a smaller number may meet and adjourn to some other time or until the quorum is obtained.

Section 5. Procedure. (A) All meetings of the Board shall be held in Schenectady County, New York. Except as otherwise provided in Article 7 of the Public Officers Law (the “Open Meetings Law”), every meeting of the Board shall be open to the public. Notice of each meeting of the Board shall be given to the news media and to the public in the manner required by the Open Meetings Law.

- (B) The order of business and all other matters of procedure at every meeting of the Board may be determined by the person presiding at the meeting.

Section 6. Resolutions. All resolutions shall be in writing and shall be copied in or attached to a journal of the proceedings of the Corporation.

Section 7. Manner of Voting. Pursuant to the Open Meetings Law, Directors of the Corporation must be present either in person or via videoconferencing at a meeting of the Board to vote on a question coming before the Corporation.

ARTICLE IV — COMMITTEES OF THE BOARD

Section 1. Standing Committees. The Board shall have the following standing committees, each consisting of not less than three Directors: (1) a Fiscal Audit Committee; and (2) a Governance Committee.

Section 2. Audit Committee. (A) As indicated above, the Treasurer of the Corporation shall be the Chair of the Fiscal Audit Committee. The Assistant Treasurer of the Corporation shall also be a member of the Fiscal Audit Committee. The Chair shall appoint the balance of the members of the Fiscal Audit Committee, each of whom shall be an Independent Director of the Board.

- (B) The Fiscal Audit Committee shall ensure that the Corporation arranges for the timely preparation and appropriate filing of the annual budget, the annual financial statements, the annual financial reports and the annual financial audit required by the Act.
- (C) The Fiscal Audit Committee shall recommend to the Board the hiring of a certified independent public accounting firm for the Corporation, establish the compensation to be paid to the accounting firm, and provide direct oversight of the performance of the independent audit performed by the accounting firm hired for such purpose. The Audit Committee shall not recommend the hiring of a certified independent public accounting firm to provide audit services to the Corporation if the Executive Director, comptroller, Chief Financial Officer, chief accounting officer, or any other person serving in an equivalent position for the Corporation was employed by that certified independent public accounting firm and participated in any capacity in the audit of the Corporation during the one year period preceding the date of the initiation of the audit.

Section 3. Governance Committee. (A) The Chairman shall appoint the members of the Governance Committee, each of whom shall be an Independent Director of the Board.

- (B) The Governance Committee shall: (1) keep the Board informed of current best governance practices; (2) review corporate governance trends; (3) update the Corporation's corporate governance principles; and (4) advise the Majority Leaders of the County on the skills and experiences required of potential Directors of the Board.

Section 4. Meetings of Committees. (A) Committees of the Board shall meet at such times and places and the respective chairs of said committees shall determine and the notice of the meeting shall specify.

- (B) Meetings of committees of directors shall be governed by the provisions of Sections 4 through 7 of Article III of these by-laws, which govern meetings of the entire Board.

ARTICLE V — EXECUTIVE OFFICERS AND EMPLOYEES

Section 1. Executive Director. (A) The Executive Director shall be appointed by the Board, and shall be the chief executive officer of the Corporation. The person appointed as Executive Director of the Corporation may **not** be a Director of the Board.

- (B) The Executive Director shall have general supervision over the administration of the business and affairs of the Corporation, subject to the direction of the Board. Whenever possible, the Executive Director shall attend each meeting of the Board, and shall submit such recommendations and information to the Board as the Executive Director may consider proper concerning the business, affairs and policies of the Corporation.
- (C) The Executive Director shall be charged with the management of all projects of the Corporation.
- (D) The Executive Director shall also serve as the Contracting Officer of the Corporation, and, as such, be responsible for (1) the disposition of property of the Corporation, and (2) the Corporation's compliance with the Corporation's property use and disposition guidelines.

Section 2. Chief Financial Officer. (A) The Chief Financial Officer shall be appointed by the Board, and shall be the chief financial officer of the Corporation. The person appointed as Chief Financial Officer of the Corporation may **not** be a Director of the Board.

- (B) The Chief Financial Officer shall have the care and custody of all funds of the Corporation and shall deposit the same in the name of the Corporation in such bank or banks as the Board may select or, if the Board have not so selected a bank or banks, which the Chief Financial Officer selects.
- (C) The Chief Financial Officer shall keep regular books of accounts showing receipts and expenditures, and shall render to the Audit Committee at each regular meeting thereof an account of such transactions and also of the financial condition of the Corporation.
- (D) Every annual financial report of the Corporation must be certified in writing by the Chief Financial Officer that based on the Chief Financial Officer's knowledge (1) the information provided therein is accurate, correct and does not contain any untrue statement of material fact; (2) does not omit any material fact which, if omitted, would cause the financial statements to be misleading in light of the circumstances under which such statements are made; and (3) fairly presents in all material respects the financial condition and results of operations of the Corporation as of, and for, the periods presented in the financial statements.

Section 3. Additional Personnel. The Corporation may from time to time employ such personnel as it deems necessary to exercise its statutory powers, duties and functions. The selection and compensation of all personnel shall be determined by the Corporation.

Section 4. Financial Disclosure. Officers and employees of the Corporation shall file annual financial disclosure statements with the Schenectady County Board of Ethics.

Section 5. Term of Office. The Executive Director and the Chief Financial Officer shall, unless otherwise determined by the Board (including by any contract between the Corporation and such officer), hold office until the next annual meeting of the Board and until their successors have been elected or appointed and qualified. Each additional officer appointed or elected by the Board shall hold office for such term as shall be determined from time to time by the Board (including by any

contract between the Corporation and such officer) and until his or her successor has been elected or appointed and qualified. Any officer, however, may be removed or have his or her authority suspended by the Board at any time, with or without cause. If the office of any officer becomes vacant for any reason, the Board shall have the power to fill such vacancy.

Section 6. Resignation. Any officer may resign at any time by notifying the Secretary of the Corporation in writing. Such resignation shall take effect at the time specified therein and unless otherwise specified in such resignation, the acceptance thereof shall not be necessary to make it effective.

Section 7. Duties of Officers May Be Delegated. In case of the absence or disability of an officer of the Corporation, or for any other reason that the Board may deem sufficient, the Board, except where otherwise provided by law, may delegate, for the time being, the powers or duties of any officer to any other officer, or to any member of the Board.

ARTICLE VI — INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 1. Right of Indemnification. Each Director and officer of the Corporation, whether or not then in office, and any person whose testator or intestate was such a Director or officer, shall be indemnified by the Corporation for the defense of, or in connection with, any threatened, pending or completed actions or proceedings and appeals therein, whether civil, criminal, administrative or investigative, in accordance with and to the fullest extent permitted by the Section 18 of the Public Officers Law of the State of New York or other applicable law, as such law now exists or may hereafter be adopted or amended; provided, however, that the Corporation shall provide indemnification in connection with an action or proceeding (or part thereof) initiated by such a Director or officer only if such action or proceeding (or part thereof) was authorized by the Board.

Section 2. Advancement of Expenses. (A) Expenses incurred by a Director or officer in connection with any action or proceeding as to which indemnification may be given under Section 1 of this Article VI may be paid by the corporation in advance of the final disposition of such action or proceeding upon (1) the receipt of an undertaking by or on behalf of such Director or officer to repay such advancement in case such Director or officer is ultimately found not to be entitled to indemnification as authorized by this Article VI and (2) approval by the Board.

(B) To the extent permitted by law, the Board shall not be required to find that the Director or officer has met the applicable standard of conduct provided by law for indemnification in connection with such action or proceeding before the Corporation makes any advance payment of expenses hereunder.

Section 3. Availability and Interpretation. To the extent permitted under applicable law, the rights of indemnification and to the advancement of expenses provided in this Article VI (A) shall be available with respect to events occurring prior to the adoption of this Article VI, (B) shall continue to exist after any rescission or restrictive amendment of this Article VI with respect to events occurring prior to such rescission or amendment, (C) shall be interpreted on the basis of applicable law in effect at the time of the occurrence of the event or events giving rise to the action or proceeding or, at the sole discretion of the Director or officer (or, if applicable, at the sole

discretion of the testator or intestate of such Director or officer seeking such rights), on the basis of applicable law in effect at the time such rights are claimed and (D) shall be in the nature of contract rights that may be enforced in any court of competent jurisdiction as if the Corporation and the Director or officer for whom such rights are sought were parties to a separate written agreement.

Section 4. Other Rights. The rights of indemnification and to the advancement of expenses provided in this Article VI shall not be deemed exclusive of any other rights to which any Director or officer of the Corporation or other person may now or hereafter be otherwise entitled, whether contained in these by-laws, a resolution of the Board or an agreement providing for such indemnification, the creation of such other rights being hereby expressly authorized. Without limiting the generality of the foregoing, the rights of indemnification and to the advancement of expenses provided in this Article VI shall not be deemed exclusive of any rights, pursuant to statute or otherwise, of any Director or officer of the Corporation or other person in any action or proceeding to have assessed or allowed in his or her favor, against the Corporation or otherwise, his or her costs and expenses incurred therein or in connection therewith or any part thereof.

Section 5. Severability. If this Article VI or any part hereof shall be held unenforceable in any respect by a court of competent jurisdiction, it shall be deemed modified to the minimum extent necessary to make it enforceable, and the remainder of this Article VI shall remain fully enforceable. Any payments made pursuant to this Article VI shall be made only out of funds legally available therefor.

ARTICLE VII — CORPORATE FINANCE

Section 1. Corporate Funds. (A) Pursuant to Section 860 of the Act, the Corporation shall have power to contract with the holders of any of its bonds or notes as to the custody, collection, securing, investment and payment of any moneys of the Corporation or any moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and to carry out any such contract.

(B) Except as provided in subsection (A) of this Section 1, the funds of the Corporation shall be deposited in its name with such banks, trust companies or other depositories as the Board may from time to time designate.

(C) Except as provided in subsection (A) of this Section 1, all checks, notes, drafts and other negotiable instruments of the Corporation shall be signed by such officer or officers, agent or agents, employee or employees as the Board from time to time may designate. No officers, agents or employees of the Corporation, alone or with others, shall have the power to make any checks, notes, drafts or other negotiable instruments in the name of the Corporation or to bind the Corporation thereby, except as provided in this Section.

Section 2. Fiscal Year. The fiscal year of the Corporation shall be the calendar year unless otherwise provided by the Board.

Section 3. Loans to Directors and Officers. No loans shall be made by the Corporation to its Directors or officers.

Section 4. Gifts. The Board or any authorized officer, employee or agent of the Corporation may accept on behalf of the Corporation any contribution, gift, bequest or devise for any general or special purpose or purposes of the Corporation.

Section 5. Voting of Securities Held by the Corporation. Stocks or other securities owned by the Corporation may be voted in person or by proxy as the Board shall specify. In the absence of any direction by the Board, such stocks or securities shall be voted by the Executive Director as the Executive Director shall determine.

Section 6. Income from Corporation Activities. All income from activities of the Corporation shall be applied to the maintenance, expansion or operation of the lawful activities of the Corporation.

ARTICLE VIII — AMENDMENTS

Section 1. Amendments To By-Laws. The by-laws of the Corporation may be amended with the consent of the Chair of the Schenectady County Legislature and the approval of a majority of all the Directors of the Corporation at a regular meeting or at a special meeting called for that purpose; but no such amendment will be adopted unless at least ten days written notice thereof has been previously given to all Directors of the Corporation and to the Chair of the Schenectady County Legislature.