

AMENDED AND RESTATED BY-LAWS

OF

YONKERS DOWNTOWN WATERFRONT DEVELOPMENT CORPORATION¹

(a New York Not-for-Profit Local Development Corporation)

ARTICLE I

MEMBERS

1. **MEMBERSHIP.** Members of the public who represent business, banking, labor, education, environmental organizations, cultural institutions and the community, or other professionals, are eligible to serve as members of the corporation. Membership shall consist of six (6) members, each of whom shall serve on the Board of Directors of the corporation. Members shall be appointed by the Mayor of the City of Yonkers and shall each serve a three-year term, except for the first appointments pursuant to this section for which two members shall be appointed to a term expiring June 30, 1996, two members shall be appointed to a term expiring June 30, 1997, and two members shall be appointed to a term expiring June 30, 1998.

2. **RECORD DATE FOR MEMBERS:** For the purpose of determining the members entitled to notice of or to vote at any meeting of members or any adjournment thereof, or to express consent to or dissent from any proposal without a meeting, or for the purpose of determining members entitled to receive distributions, or the allotment of any rights, or for the purpose of any other action, either the directors or the Executive Director or Secretary of the corporation may fix, in advance, a date as the record date for any such determination of members. Such record date shall not be more than fifty days and not less than ten days before the date of such meeting or such consent or dissent or other action by the members or the date on which the resolution of directors relating to any distribution or allotment of rights, as the case may be. If no record date is fixed, the record date for the determination of members entitled to vote at a meeting of members shall be at the close of business on the day next preceding the day on which notice is given, or, if no notice is given, the day on which the meeting is held; and, in such case, the record date for determining members for any purpose other than that specified in the preceding clause shall be at the close of business on the day on which the resolution of the directors relating thereto is adopted. When a determination of members of record entitled to notice of or to vote at any meeting of members has been made as provided in this paragraph, such determination shall apply to any adjournment thereof, unless the directors fix a new record date under this paragraph for the adjourned meeting.

¹ By-laws were amended on (i) June 4, 1997, (ii) by Resolution 8-2000, and (iii) on February 1, 2007 by Resolution 1-2007.

3. MEANING OF CERTAIN TERMS. As used herein in respect of the right to notice of a meeting of members or a waiver thereof or to participate or vote thereat or to consent or dissent in writing in lieu of a meeting, as the case may be, the term "membership" or "memberships" or "member" or "members" refers to an outstanding membership or memberships of record and in good standing.

4. MEMBERSHIP MEETINGS.

A. TIME. The annual meeting shall be held on the third Thursday of June. Any special meeting may be held on the date fixed by the directors except when the Not-for-Profit Corporation Law confers the right to fix the date upon members.

B. PLACE. Annual meetings and special meetings shall be held at the office of the corporation, or at such other place as may be designated by the Board of Directors.

C. CALL. Annual meetings may be called by the directors or by any officer instructed by the directors to call the meeting. Special meetings may be called in like manner, or by the Executive Director or Secretary of the corporation, except when the directors are required by the Not-for-Profit Corporation Law to call a meeting, or except when the members are entitled by said Law to demand the call of a meeting.

D. NOTICE OR ACTUAL OR CONSTRUCTIVE WAIVER OF NOTICE. Written notice of all meetings shall be given, stating the place, date, and hour of the meeting, and, unless it is an annual meeting, indicate that it is being issued by or at the direction of the person or persons calling the meeting. The notice of an annual meeting shall state that the meeting is called for the election of directors and for the transaction of other business which may properly come before the meeting, and shall (if any other action which could be taken at a special meeting is to be taken at such annual meeting) state the purpose or purposes. The notice of a special meeting shall in all instances state the purpose or purposes for which the meeting is called; and, at any such meeting, only such business may be transacted which is related to the purpose or purposes set forth in the notice. If the directors shall adopt, amend, or repeal a by-law regulating an impending election of directors, the notice of the next meeting for election of directors shall set forth the By-Law so adopted, amended, or repealed, together with a concise statement of the changes made. A copy of the notice of any meeting shall be given to each member at his/her record address or at such other address which he/she may have furnished by request in writing to the Secretary of the corporation. If the notice is given personally or by first class mail, it shall be given not less than ten nor more than fifty days before the date of the meeting or, if mailed by any other class of mail, it shall be given not less than thirty nor more than sixty days before such date. Notice by mail shall be deemed to be given when deposited, with postage thereon prepaid, in a post office or official depository under the exclusive care and custody of the United States post office department. If a meeting is adjourned to another time or place, and, if any announcement of the adjourned time or place is made at such meeting, it shall not be necessary to give notice of the adjourned meeting unless the directors, after adjournment, fix a new record date for the adjourned meeting. Notice of a meeting and/or of the lapse of any prescribed period of time need not be given to any member who submits a signed waiver of

notice and/or of the lapse of any prescribed period of time before or after the meeting. The attendance of a member at a meeting without protesting prior to the conclusion of the meeting the lack of notice of such meeting shall constitute a waiver of notice by him/her.

E. MEMBERS LIST OR RECORD AND CHALLENGE. A list or record of members as of the record date, certified by the Secretary or other officer responsible for its preparation, shall be produced at any meeting of members upon the request therefor of any member who has given written notice to the corporation that such request will be made at least ten days prior to such meeting. If the right to vote at any meeting is challenged, the inspectors of election, if any, or the person presiding thereat, shall require such list or record of members to be produced as evidence of the right of the persons challenged to vote at such meeting, and all persons who appear from such list or record to be members entitled to vote thereat may vote at such meeting.

F. ANNUAL REPORT OF DIRECTORS. The Board of Directors shall present at each annual meeting of members its report, which shall set forth the information required under Section 519 of the Not-for-Profit Corporation Law, and shall be verified or certified in a manner permitted by said Section 519. Such report shall be filed with the records of the corporation and either a copy or an abstract thereof entered in the minutes of the proceedings of such annual meeting of members.

G. CONDUCT OF MEETING. Meetings of the members shall be presided over by one of the following officers in the order of seniority and if present and acting: the Chairman of the Board, if any, the Vice-Chairman of the Board, if any, the Executive Director, an Assistant Director, or, if none of the foregoing is in office and present and acting, by a chairman to be chosen by the members. The Secretary of the corporation, or in his/her absence, an Assistant Secretary, shall act as secretary of every meeting, but if neither the Secretary nor an Assistant Secretary is present the Chairman of the meeting shall appoint a secretary of the meeting.

H. PROXY REPRESENTATION. There shall be no proxy representation of members, whether for the purpose of voting, participating at a meeting, waiving notice or expressing consent or dissent, or for any other purpose.

I. INSPECTORS - APPOINTMENT. The directors, in advance of any meeting, may, but need not, appoint one or more inspectors to act at the meeting or any adjournment thereof. If an inspector or inspectors are not appointed, the person presiding at the meeting may, but need not, appoint one or more inspectors. In case any person who may be appointed as an inspector fails to appear or act, the vacancy may be filled by appointment made by the directors in advance of the meeting or at the meeting by the person presiding thereat. Each inspector, if any, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector at such meeting with strict impartiality and according to the best of his ability. The inspectors, if any, shall determine the number of membership certificates or cards, if any, or the number of memberships, outstanding and the voting power of each, the membership certificates or cards, if any, or the number of

memberships represented at the meeting, the existence of a quorum, and shall receive votes, ballots, or consents, hear and determine all challenges and questions arising in connection with the right to vote, count and tabulate all votes, ballots, or consents, determine the result, and do such acts as are proper to conduct the election or vote with fairness to all members. On request of the person presiding at the meeting or any member, the inspector or inspectors, if any, shall make a report in writing of any challenge, question, or matter determined by him/her or them and execute a certificate of any fact found by him/her or them.

J. QUORUM. Except for a special election of directors pursuant to Section 604 of the Not-for-Profit Corporation Law, and except as herein otherwise provided, four (4) Members shall constitute a quorum at a meeting of members for the transaction of any business. The members present may adjourn the meeting despite the absence of a quorum.

K. VOTING. Each membership shall entitle the holder thereof to one vote. In the event that the member shall have occasion, under Section 604 of the Not-for-Profit Corporation Law or otherwise, to elect directors, a plurality of the votes cast shall elect. Any other action shall be authorized by a majority of the votes cast except where the Not-for-Profit Corporation Law prescribes a different proportion of votes; provided that the said majority of the affirmative votes cast shall be at least equal to a quorum.

5. RESIGNATION. Any member may resign and withdraw from the corporation by a notice in writing to that effect given to the Chairman of the Board of Directors, or to the Executive Director or Secretary of the corporation, and unless some time be fixed therein for the taking effect of such resignation, the same shall become effective immediately. The acceptance of a resignation shall not be required to make it effective.

ARTICLE II GOVERNING BOARD

1. FUNCTIONS AND DEFINITIONS. Except for directors who serve by virtue of their public office ("Municipal Directors"), the majority of the remaining directors shall be independent members.² The corporation shall be managed by a governing Board, which is herein referred to as the "Board of Directors" or "directors" notwithstanding that the members thereof may otherwise bear the titles of trustees, managers, or governors or any other designated title. The word "director" or "directors" likewise herein refers to a member or to members of the governing board notwithstanding the designation of a different official title or titles. The use of the phrase "entire board" herein refers to the total number of directors which the corporation would have if there were no vacancies.

2. APPOINTMENT AND TERM. There shall be two categories of directors: Municipal Directors and Business/Public Directors.

² See Public Authority Accountability Act of 2005; applies only to appointments made after January 1, 2006

A. There shall be six (6) Municipal Directors as follows: The Mayor of the City of Yonkers, the Deputy Mayor of the City of Yonkers; a designee of the City Council of the City of Yonkers, who shall be a member thereof; a designee of those members of the Board of Legislators of the County of Westchester representing districts located in whole or in part in the City of Yonkers, which designee shall be one of such members; a designee of the Westchester County Executive and said designee shall be a Westchester County employee; and a designee of the Yonkers delegation to the Legislature of the State of New York.

(i) Directors designated by the City Council and those designated by members of the County Board of Legislators and of the Legislature of the State of New York shall serve at the pleasure of the City Council or their legislative delegation, respectively. Designations of Municipal Directors shall be made in writing to the Chairman of the Board of Directors, and may be changed from time to time.

(ii) A Municipal Director holding office by virtue of his/her municipal office or membership in the City Council or County Board of Legislators shall automatically cease to be a director of the corporation upon his/her ceasing to hold such municipal office or membership. In the event of a change in the title of the Mayor or Deputy Mayor of the City of Yonkers, or change in the functions and duties of either of such named officers, then such officer shall be succeeded as a Municipal Director of the corporation by the officer who succeeds to the principal functions and duties of such officer and all questions arising under this sentence shall be determined by the Corporation Counsel as chief legal officer of the City of Yonkers, who determination shall be final and binding upon the corporation.

B. The six (6) members of the corporation appointed by the Mayor shall serve as the Business/Public Directors. The terms of office for each Business/Public Director shall be coterminous with his/her three year term as a member of the corporation.

C. The Board of Directors shall elect an Executive Director and a Treasurer of the corporation. Such election shall occur at a Regular, Annual or special meeting, and shall be effected by the vote of majority of the Directors present at the meeting, provided that a quorum is present. The Executive Director and the Treasurer shall serve at the pleasure of the Board of Directors

3. MEETINGS.

A. TIME. Regular meetings shall be held on the third Thursday of each month at 8:00 P.M., provided, that any such meeting or meetings may be postponed to a later month or months by the Chairman of the Board or by the Executive Director or Secretary of the corporation.

B. PLACE. Meetings shall be held at such place within the City of Yonkers as shall be fixed by a majority vote of the Board of Directors.

C. CALL. No call shall be required for Regular or Annual Meetings for which the time and place have been fixed. Special meetings may be called by the Chairman of the Board, or by the Executive Director or Secretary of the corporation, or by a majority of the directors. The purpose of any special meeting shall be stated in the notice of said meeting and the agenda shall be limited to the stated purpose.

D. NOTICE OR ACTUAL OR CONSTRUCTIVE WAIVER. No notice shall be required for Regular or Annual meetings for which the time and place have been fixed. Written, oral, or any other mode of notice of the time and place shall be given for special meetings in sufficient time for the convenient assembly of the directors thereat unless the lapse of such time has been waived. The notice of any meeting need not specify the purpose of the meeting. Notice of any adjournment of a meeting of the Board of Directors to another time or place because a quorum is not present shall be given to the directors who were not present at the time of the adjournment and, unless such time and place are announced at the meeting, to the other directors. Any requirement of furnishing a notice shall be waived by any director who signs a 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/her.

E. QUORUM AND ACTION. A majority of all the directors shall be necessary to constitute a quorum for the transaction of business. The acts of a majority of the directors shall be the acts of the Board of Directors. If a quorum is not present, a majority of the directors present may adjourn the meeting to such time and place within the City of Yonkers as they may determine. No notice of such adjourned meeting shall be required. There shall be no proxy representation of directors, whether for the purpose of voting, participating at a meeting, waiving notice or expressing consent or dissent, or for any other purpose.

F. CHAIRMAN OF THE MEETING. The Chairman of the Board, if any and if present and acting, shall preside at all meetings. Otherwise, the Vice Chairman, if present and acting, or any other director chosen by the Board, shall preside.

4. REMOVAL OF DIRECTORS. Any or all of the directors may be removed for cause or without cause by the members. One or more of the directors may be removed for cause by the Board of Directors; provided that there is a quorum present at the meeting at which such action is taken.

5. VACANCIES. Vacancies on the Board of Directors occurring by reason of death, resignation, disqualification, removal or otherwise, shall be filled as follows:

A. Municipal Director. A Municipal Director holding office by virtue of his/her municipal office, shall be automatically succeeded by his/her successor in such municipal office.

B. Business/Public Director. A Business/Public Director, shall be succeeded by a member of the corporation appointed by the Mayor who shall serve out the balance of the unexpired term of the vacant position.

C. Executive Director and Treasurer. A vacancy in the office of the Executive Director or the Treasurer shall be filled by the Board of Directors at a Regular or Annual Meeting, or at a special meeting called for such purpose. The person elected to fill such vacancy shall serve at the pleasure of the Board. The vote of a majority of the directors at such Regular, Annual or special meeting shall govern, provided that a quorum is present at such meeting.

6. COMMITTEES. (a) The Board of Directors, by resolution adopted by a majority, may, provided a quorum is present, designate from their number three or more directors to constitute an Executive Committee and other standing committees, each of which, to the extent provided in the resolution designating it, shall have the authority of the Board of Directors with the exception of any authority the delegation of which is prohibited by Section 712 of the Not-for-Profit Corporation Law.

(b) Audit and Finance Committee. An Audit and Finance Committee is hereby established in accordance with the Public Authorities Accountability Act of 2005 and the Public Authorities Reform Act of 2009. The Audit and Finance Committee shall make recommendations to the Board in the hiring of a certified public accounting firm, establish the compensation to be paid to such firm, provide direct oversight of the performance of such firm's audit of the corporation, and review proposals for the issuance of debt. The Audit and Finance Committee shall consist of at least three independent directors who shall be appointed by the Board of Directors and may be removed by the Board at its discretion. To the extent practicable, members of the Audit and Finance Committee must be familiar with corporate financial and accounting practices in order to discharge their responsibilities.

(c) Governance Committee. A Governance Committee is hereby established in accordance with the Public Authorities Accountability Act of 2005 and the Public Authorities Reform Act of 2009. The Governance Committee shall keep the Board informed of current best governance practices, review corporate governance trends, update the corporation's corporate governance principles, advise the Board on the skills and experiences required of potential directors, examine ethical conflicts of interest, perform board self-evaluations and review any other principle of governance adopted by the Governance Committee. The Governance Committee shall consist of at least three independent directors who shall be appointed by the Board of Directors and may be removed by the Board at its discretion. Members of the Governance Committee should be suitably knowledgeable in matters pertaining to governance.

ARTICLE III OFFICERS

1. APPOINTMENT AND TERM. The officers of the corporation shall be a Chairman, Vice-Chairman, a Secretary, a Treasurer and an Executive Director.

A. Chairman: The Chairman shall be the Mayor of the City of Yonkers, holding office by virtue of his/her municipal office.

B. Vice-Chairman: The Vice-Chairman shall be one of the Business/Public Directors and shall be elected for a term of one (1) year by a majority of the Board of Directors, at the annual meeting of the Board.

C. Secretary: The Secretary shall be the Deputy Mayor of the City of Yonkers, holding office by virtue of his/her municipal office.

D. Treasurer: The Treasurer may be a director and shall be elected by a majority of the Board of Directors as provided by Article II Section 2C hereof.

E. Executive Director: The Executive Director may be a director and shall be elected by a majority of the Board of Directors as provided by Article II Section 2C hereof.

2. DUTIES.

A. Chairman: The Chairman shall preside over meetings of the members of the Board of Directors. Except as otherwise authorized by the directors of the corporation, the Chairman shall have authority to execute all agreements, contracts, deeds, and other instruments of the corporation by manual or facsimile signature. At each meeting, the Chairman shall submit recommendations and information as he/she may consider proper concerning the business, affairs, and policies of the corporation. The Chairman shall perform such other duties as properly required of him/her by the Board of Directors. He/she shall have the power to sign all checks, or to countersign all checks signed by the Executive Director or by the Secretary.

B. Vice-Chairman: The Vice-Chairman shall perform all of the duties and exercise the functions of the Chairman in his/her temporary absence, or during his/her temporary inability to act. The Vice-Chairman shall perform such other duties as may be assigned to him/her by the Board of Directors or by the Chairman.

C. Secretary. The Secretary shall have the power to sign all checks, or to countersign checks signed by the Chairman or Executive Director. He/she shall keep the minutes of all meetings and shall have charge of the records of the corporation. The Secretary shall perform all duties incident to his/her office or as required by the Board of Directors. Secretarial functions, such as the keeping of minutes may be delegated to an employee of the corporation.

D. Treasurer. The Treasurer shall have charge of all monies and securities of the corporation and shall cause regular books of accounts to be kept. He/She shall have the power to countersign checks signed by the Chairman, the Secretary or Executive Director. The Treasurer shall perform all duties incident to his/he office or as required by the Board of Directors.

E. Executive Director. The Executive Director shall be the Chief Executive Officer of the corporation and he/she shall perform such other duties as are incident to his/her office or as are properly required of him/her by the Board of Directors. He/she shall set the policy of the organization consistent with and pursuant to the corporate purpose and direction of the Board of Directors. He/she shall supervise the day-to-day operations of the corporation, reporting to the Chairman. The Executive Director may employ an Assistant Director and/or any other positions necessary for the day-to-day operations of the corporation. He/she shall have authority to execute all agreements, contracts, deeds, and other instruments of the corporation by manual or facsimile signature, and shall have the power to sign all checks, or to countersign checks signed by the Chairman or by the Secretary.³

3. REMOVAL. The Board of Directors may remove the Vice-Chairman and the Executive Director for cause or without cause.

4. VACANCIES. A vacancy in the office of Executive Director or Vice-Chairman shall be filled by a majority vote of the Board of Directors. During any period in which the Executive Director shall be on leave or absent for a prolonged period from the performance of his/her duties, whether by reason of inability to act or any other cause, the Board of Directors may by a majority vote appoint an Acting Executive Director, and the individual so designated shall, at the pleasure of the Board of Directors, perform all duties and exercise all functions and authority of the Executive Director for so long as such leave or absence shall continue, or until a successor Executive Director is elected in accordance with these By-laws.⁴

5. BOND. The Board of Directors shall have the power to require that the officers, agents and employees of the corporation, or any of them, shall furnish a corporate surety bond for the faithful performance of their respective duties, in such amounts as the Board shall determine, the expense of such borne by the corporation.

6. COMPENSATION. The officers of the corporation shall receive such salaries or other compensation, if any, as may be determined by the Board of Directors.

ARTICLE IV INDEMNIFICATION OF DIRECTORS AND OFFICERS

1. INDEMNIFICATION. If a director or officer of the corporation is made a party to any civil or criminal action or proceeding in any matter arising from the performance by such director or officer of his or her duties for or on behalf of the corporation, then, to the full extent permitted by law, the corporation, upon affirmative vote of the Board of Directors, a quorum of directors being present at the time of the vote who are not parties to the action or proceeding, shall: (a) Advance to or for the account of such director or officer all sums found by the Board, so voting, to be necessary and appropriate to enable the director or officer to conduct his or her

³ Amendment made by Resolution adopted June 4, 1997

⁴ Amendment made by Resolution 8-2000

defense, or appeal, in the action or proceeding; and (b) Indemnify such director or officer for all sums paid by him or her in the way of judgments, fines, amounts paid in settlement, and reasonable expenses, including attorneys' fees actually and necessarily incurred, in connection with the action or proceeding, or appeal therein, subject to the proper application of credit for any sums advanced to the director or officer pursuant to clause (a) of this paragraph. Such indemnification shall not be exclusive of any other rights which those indemnified may have or hereafter acquire under any resolution of the Board of Directors, provision of law or otherwise.

2. AMENDMENT OF BY-LAWS. The Board of Directors may from time to time adopt further by-laws with respect to indemnification, and may amend these and such by-laws to provide the fullest indemnification permitted by the laws of the State of New York.

3. INSURANCE. The Board of Directors shall have the power to authorize the corporation to purchase and maintain insurance (a) to indemnify the corporation for any express obligation which it incurs as a result of the indemnification of any person under the provisions of this Article, and (b) to indemnify any person who is or was a director or officer of the corporation against all expenses, liability and loss incurred by or asserted against such person in such capacity or arising out of such status, whether or not the corporation would have the power to indemnify such person.

ARTICLE V CONFLICT OF INTEREST

1. CONFLICTING INTERESTS. No director, officer or employee of the corporation shall have or shall acquire any interest, direct or indirect, in any project which the corporation is promoting, or in any contract or proposed contract for material or services, or in any lease, mortgage, sale or contract of any nature whatever, relating to any such project or to the corporation, without forthwith making written disclosure to the corporation of the nature and extent of his/her interest. Such disclosure shall be entered in writing upon the minutes of the corporation. No director who has such interest shall vote on any matter relating to such interest. At the discretion of the Board of Directors, the acquisition or continuation of any such interest may be deemed cause for removal.

2. CODE OF ETHICS. A Code of Ethics shall be prepared by the Governance Committee and adopted by the Board of Directors.

3. FINANCIAL DISCLOSURE . Members of the Board of Directors and the officers and employees of the Corporation shall file annual financial disclosure statements with the Westchester County Board of Ethics in accordance with the Public Authorities Accountability Act of 2005.

4. LOANS. The Board of Directors shall not directly or indirectly, including through any subsidiary, extend or maintain credit, arrange for the extension of credit, or renew an

extension of credit, in the form of a personal loan to, or for any officer, director or employee of the corporation.

5. CORPORATE TRAINING. Directors shall be required to participate in state approved training courses as they become available regarding their legal, fiduciary, financial and ethical responsibilities as directors of the corporation.

ARTICLE VI
BOOKS AND RECORDS

The corporation shall keep at the office of the corporation within the State of New York correct and complete books and records of account and shall keep minutes of the proceedings of the members, of the Board of Directors, and/or any committee which the directors may appoint, and a list or record containing the names and addresses of all members; provided that the books and records of account may be kept at an office without the State of New York if the Certificate of Incorporation shall so provide. Any of the foregoing books, minutes, or lists or records may be in written form or in any other form capable of being converted into written form within a reasonable time.

ARTICLE VII
FISCAL YEAR

The fiscal year of the corporation shall be fixed, and shall be subject to change, by the Board of Directors.

ARTICLE VIII
SEAL

The seal of the corporation shall be circular in form and shall carry the name of the corporation and the year of its incorporation.

ARTICLE IX
CORPORATE OFFICES

The offices of the corporation shall be at City Hall, 40 South Broadway, Yonkers, New York or at such other place in the City of Yonkers as the Board of Directors may from time to time designate.

ARTICLE X
AMENDMENTS

These By-laws shall be reviewed by the Governance Committee and from time to time may be altered, amended or replaced, and new By-laws may be adopted by the Board of Directors, at a meeting held after not less than ten (10) day's written notice to the directors of the proposed alteration. All amendments or changes shall require the affirmative vote of a majority of the total number of directors, except those amendments or changes that, pursuant to the provisions of New York Not-For-Profit Corporation Law, require the affirmative vote of a higher percentage of the total number of directors.