

BY-LAWS

OF

NIAGARA ORLEANS REGIONAL LAND IMPROVEMENT CORPORATION

Adopted , 2017

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BY-LAWS

OF

NIAGARA ORLEANS REGIONAL LAND IMPROVEMENT CORPORATION

**ARTICLE I - THE CORPORATION**

SECTION 1 - NAME.

The Corporation shall be known as "Niagara Orleans Regional Land Improvement Corporation."

SECTION 2 - OFFICES.

The principal office of the Corporation shall be located in Niagara County, New York. The Corporation may also have offices at such other places within the State of New York as the Board of Directors may from time to time determine or the activities of the Corporation may require.

SECTION 3 - PURPOSES.

The Corporation shall have such purposes as are now or hereafter set forth in its Certificate of Incorporation.

SECTION 4 - SEAL.

The corporate seal shall have inscribed thereon the name of the Corporation, the year of its organization, and the words "Corporate Seal, New York." The seal may be used by causing it or a facsimile thereof to be impressed or affixed or otherwise reproduced.

**ARTICLE II - MEMBERSHIP**

SECTION 1 - COMPOSITION OF MEMBERSHIP.

The initial Members of the Corporation shall be the County of Niagara, County of Orleans, City of Lockport, City of Niagara Falls and City of North Tonawanda ("the Members"), which from time to time shall appoint voting members of the Board of Directors of the Corporation as described herein.

## SECTION 2 - RIGHTS AND POWERS OF THE MEMBERS.

The Members shall have and exercise all the rights and powers of corporate membership created by the laws of the State of New York, the Certificate of Incorporation and the By-laws of the Corporation.

## SECTION 3 - ANNUAL MEETING OF THE CORPORATION.

The Members shall hold an annual meeting of the Corporation within six months after the end of each fiscal year at a convenient time and place designated by the Members. At the annual meeting, the Members shall appoint Directors for positions where a new directorship is created or the term of a Director has expired, receive the annual report and transact such other business as may properly come before the meeting.

## SECTION 4 - ANNUAL REPORT TO THE MEMBERS.

At the annual meeting of the Corporation, the CEO/President and the CFO/Treasurer of the Corporation shall present an annual report showing in appropriate detail the following information:

(a) A complete verified or audited financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation; and

(b) A summary of the activities of the Corporation during the preceding year. The annual report shall be filed with the minutes of the annual meeting.

## SECTION 5 - SPECIAL MEETING OF THE CORPORATION.

Special meetings of the Corporation may be called at any time by the CEO/President and shall be called by the Secretary within fourteen (14) days of receipt of a written request from any Member. Such request shall state the purpose or purposes for the proposed meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice of such meeting.

## SECTION 6 - PLACE OF MEETINGS; ORGANIZATION.

All membership meetings shall be held at the principal office of the Corporation or at such other convenient location as may be determined by the Members of the Corporation. At each membership meeting, the CEO/President, or, in his or her absence, the chairperson chosen by a majority of the Members present, shall preside. The Secretary, or in his or her absence, a person chosen by a majority of the Members present, shall keep complete and accurate minutes of the meeting.

## SECTION 7 - NOTICE OF MEMBERSHIP MEETINGS; WAIVERS.

(a) Notice of each membership meeting shall state the purpose or purposes for which the meeting is called, the place, date and time of the meeting and, unless it is the annual meeting, shall indicate that it is being issued by or at the direction of the person or persons calling the meeting. Such notice shall be given either personally or by mail to each Member not less than ten (10) nor more than fifty (50) days before the date of the meeting. If mailed, the notice is given when deposited in the United States mail, with postage thereon prepaid, directed to a Member at his or her address as it appears on the record of Members or, if he or she shall have filed with the Secretary a written request that notices be mailed to some other address, then directed to such other address.

(b) Formal notice of meeting need not be given to a Member if he or she executes a waiver of notice, either 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.

## SECTION 8 - QUORUM OF MEMBERS.

(a) The presence of at least a majority of the Members shall constitute a quorum for the transaction of business at any annual or special membership meeting.

(b) A majority of the Members present at a meeting, whether or not a quorum is present, may adjourn any membership meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given to absent Members if the time and place is announced at the meeting adjourned.

## SECTION 9 - ACTION BY THE MEMBERS.

(a) Each Member shall be entitled to one vote on each matter properly submitted to the Members for action at any meeting of the Members. Unless otherwise required by law or these By-laws, the vote of the majority of Members present at the time of a vote at a duly convened meeting, provided a quorum is then present, shall be the act of the Members.

(b) Every Member entitled to vote at a meeting of Members may authorize another person or persons to act for him or her by proxy. Every proxy must be signed by the Member or the Member's attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Member executing it, except as otherwise provided by law.

## SECTION 10 - PROPERTY RIGHTS OF MEMBERS.

The Members shall not have any right or interests in or to the property or assets of the Corporation.

## ARTICLE III - BOARD OF DIRECTORS

### SECTION 1 - POWER OF BOARD OF DIRECTORS.

The Corporation shall be managed by its Board of Directors, which shall establish all general policies governing its operations.

### SECTION 2 - NUMBER, ELECTION AND TERM OF DIRECTORS.

(a) The number of Directors shall consist of seven (7) members. The Directors shall exercise all rights of Directors as described herein and in the Certificate of Incorporation or any applicable resolution. As used in these By-laws, "the entire Board of Directors" means the total number of Directors that the Corporation would have if there were no vacancies on the Board.

(b) The Directors shall be appointed to two year terms.

(c) Directors shall be eligible to serve an unlimited number of consecutive terms.

(d) Directors shall be appointed as follows:

(i) Three members shall be appointed by the County of Niagara;

(ii) One member shall be appointed by the Orleans County Legislature;

(iii) One member shall be appointed by the Mayor of the City of Lockport;

(iv) One member shall be appointed by the Mayor of the City of Niagara Falls;  
and

(v) One member shall be appointed by the Mayor of the City of North Tonawanda.

(e) The CEO/President and CFO/Treasurer are not eligible to serve as Directors.

### SECTION 3 - RESIGNATIONS AND REMOVAL OF DIRECTORS.

(a) Any Director of the Corporation may resign at any time by giving written notice to the CEO/President or the Secretary. Such resignation shall take effect at the time specified therein or, if no time is specified, then on delivery. Acceptance of the resignation shall not be necessary to make it effective.

(b) Any Director may be removed from the Board with or without cause by the affirmative vote of the Members.



#### SECTION 4 - NEWLY CREATED DIRECTORSHIPS AND VACANCIES.

Newly created directorships resulting from an increase in the number of directors, and vacancies occurring for any reason, shall be filled by the Members as soon as practicable but in no event later than sixty (60) days after the increase or vacancy occurs. A Director elected to fill a vacancy caused by resignation, death, disability or removal shall hold office for the unexpired term of his or her predecessor in office and until a successor is elected and takes office.

#### SECTION 5 - ANNUAL MEETING.

The annual meeting of the Board of Directors shall be held after the annual meeting of the Corporation described in Article II, Section 3 above at a convenient time and location designated by the Board. Written notice of the annual meeting shall be mailed or delivered to each voting Director of the Corporation prior to the meeting.

#### SECTION 6 - ANNUAL REPORT.

The CEO/President and the CFO/Treasurer shall present at the annual meeting of the Board of Directors a copy of the annual report described in Article II, Section 4 above.

#### SECTION 7 - SPECIAL MEETINGS AND NOTICE.

Special meetings of the Board of Directors may be called at any time by the CEO/President or any other Officer of the Corporation or by any two (2) Directors. Written notice shall be mailed or delivered to each Director of the Corporation prior to the meeting. Said notice shall state the purposes, time and place of the special meeting and that no business other than that specified in the notice may be transacted.

#### SECTION 8 - WAIVERS OF NOTICE.

Notice of a meeting need not be given to any Director who submits a signed waiver of notice whether 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 9 - PLACE OF MEETINGS.

The Board of Directors may hold its meetings at such place or places within or outside the State of New York as the voting Directors may from time to time by resolution determine.

#### SECTION 10 - OPEN MEETINGS.

To the extent required by law, the Corporation shall comply with the Open Meetings Law of the State of New York, as set forth within Article 7 of the Public Officers Law.

#### SECTION 11 - FREEDOM OF INFORMATION.

To the extent required by law, the Corporation shall comply with the Freedom of Information Law of the State of New York, as set forth within Article 6 of the Public Officers Law.

#### SECTION 12 - QUORUM AND ADJOURNED MEETINGS.

(a) A majority of the entire Board of Directors shall constitute a quorum for the transaction of business at meetings of the Board. When a quorum is once present to organize a meeting, it shall not be broken by the subsequent withdrawal of any Director(s).

(b) A majority of the Directors present, whether or not a quorum is present, may adjourn any Board meeting to another time and place. If a quorum is present at the adjourned meeting, any business may be transacted that might have been transacted on the original date of the meeting. Notice of the adjourned meeting shall be given to all Directors.

#### SECTION 13 - ACTION BY THE BOARD OF DIRECTORS.

Any corporate action to be taken by the Board of Directors means action at a meeting of the Board. Each Director shall have one vote regarding any corporate action to be taken by the Board. Except as otherwise provided by law or these By-laws, the vote of a majority of the Directors present at the time of the vote at a duly convened meeting at which a quorum is present shall be the act of the Board of Directors. All references to actions of the Board of Directors herein and in the Certificate of Incorporation shall mean the affirmative vote of a majority of the Directors present at the time of the vote at a duly convened meeting at which a quorum is present.

#### SECTION 14 - ORGANIZATION.

At each meeting of the Board of Directors, a Chairman, chosen by a majority of the Directors present, shall preside. The Secretary, or, in his or her absence, a person chosen by a majority of the Directors present, shall keep complete and accurate minutes of the meeting.

#### SECTION 15 - ATTENDANCE AT MEETINGS.

Attendance at each meeting of the Board shall be recorded by the Secretary in the minutes thereof.

#### SECTION 16 - COMPENSATION.

The Directors shall serve without compensation. All Directors may be reimbursed for reasonable expenses incurred in the performance of corporate duties.

SECTION 17 - PROPERTY RIGHTS.

No Director of the corporation shall, by reason of that position, have any rights to or interest in the property or assets of the Corporation.

SECTION 18 - ANNUAL INDEPENDENT AUDIT.

(a) The Corporation shall present to the Members an annual independent audit performed in accordance with and as required by Public Authorities Accountability Act (PAAA) pursuant to generally accepted government auditing standards certified by a firm of independent public accountants selected by the Board. At a minimum, the audit must report the following:

(i) the assets and liabilities, including the status of reserve, depreciation, special or other funds including receipts and payments of such funds, of the Corporation as of the end of the fiscal year;

(ii) the principal changes in assets and liabilities, including trust funds, during said fiscal period;

(iii) the revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes during said fiscal period;

(iv) the expenses or disbursements of the Corporation for both general and restricted purposes during said fiscal period; and

(v) the schedule of any bonds or notes of the Corporation outstanding during said fiscal period, including all refinancings, calls, refundings, defeasements, and interest rate exchange or other such agreements, and for any debt issued during the fiscal period as a part of a schedule of debt issuance that includes the date of issuance, term, amount, interest rate, means of repayment and cost of issuance.

(b) Furthermore, the certified independent auditing firm providing the annual independent audit shall report to the Board or any designated Board Committee the following:

(i) all critical accounting policies and practices to be used;

(ii) all alternative treatments of financial information within generally accepted accounting principles that have been discussed with the management of the Corporation, such as ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the certified independent public accounting firm; and

(iii) other material written communications between the certified independent accounting firm and the management of the Corporation.

## ARTICLE IV - COMMITTEES

### SECTION 1 - STANDING COMMITTEES.

(a) The Standing Committees of the Board shall be as described in subparagraph (b) below. Except as otherwise provided by these By-laws, each Standing Committee shall consist of at least three Directors. No Standing Committee shall have authority as to the following matters:

- (i) The submission to the Members of any action requiring its approval;
- (ii) The filling of vacancies on the Board of Directors or any committee;
- (iii) The amendment or repeal of these By-laws or the adoption of new By-laws; or
- (iv) The amendment or repeal of any resolution of the Board which by its terms is not so amendable or repealable.

(b) The Corporation shall have Audit and Governance Standing Committees, comprising independent members, as required by the PAAA.

### SECTION 2 - SPECIAL COMMITTEES.

The Board of Directors, by resolution adopted by a majority of the entire Board of Directors, may create Special Committees, which shall have only the powers specifically delegated to them and shall in no case have powers which are not authorized for Standing Committees. The members of Special Committees shall be appointed by the CEO/President from among the Directors, with the approval of the Board.

### SECTION 3 - MEETINGS.

Meetings of committees shall be held at such times and places as shall be fixed by the respective committee chairmen, or by vote of a majority of all of the members of the committee. Written notice shall be mailed (via regular mail or electronic mail) or delivered to all members of the committee prior to each meeting. Written minutes of the proceedings shall be kept at all committee meetings and shall be submitted at the next meeting of the Board. The CEO/President, or his or her designee, may attend all committee meetings.

### SECTION 4 - QUORUM.

Unless otherwise provided by resolution of the Board of Directors, a majority of all of the members of a committee shall constitute a quorum for the transaction of business.

SECTION 5 - MANNER OF ACTING.

Any corporate action to be taken by a committee shall mean such action to be taken at a meeting of the committee. Action by a committee shall be taken by majority vote at a meeting.

**ARTICLE V - OFFICERS**

SECTION 1 - PRESIDENT; VICE PRESIDENT; OTHER OFFICERS.

The Corporation shall have a CEO/President, a CFO/Treasurer, and a Secretary and other officers and assistant officers as the Board of Directors may determine. The offices of president and secretary shall not be held by the same person. The officers shall have such duties as may be prescribed by these By-laws and the Board of Directors. The CEO/President and CFO/Treasurer are not eligible to serve as Directors.

SECTION 2 - TERMS OF OFFICERS.

The officers shall be elected by a majority vote of the entire Board of Directors at its annual meeting. Unless a shorter term is provided in the resolution of the Board electing such officer, the term of office of each officer shall extend for one year after his or her election and until a successor is elected or appointed and qualified. Officers shall be eligible to serve an unlimited number of consecutive terms.

SECTION 3 - ADDITIONAL OFFICERS.

Additional officers may be elected for such period, have such authority and perform such duties, either in an administrative or subordinate capacity, as the Board of Directors may from time to time determine.

SECTION 4 - REMOVAL OF OFFICERS.

Any officer may be removed by vote of the Directors, with or without cause, at any time, provided there is a quorum of not less than a majority of the entire Board of Directors present at the meeting at which such action is taken.

SECTION 5 - RESIGNATION.

Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Any such resignation shall take effect at the time specified therein, or, if no time is specified, then on delivery. Acceptance of the resignation shall not be necessary to make it effective.

SECTION 6 - VACANCIES.

A vacancy in any office of the Corporation shall be filled by the majority vote of the entire Board of Directors.

## SECTION 7 – PRESIDENT.

The President shall be the Chief Executive Officer of the Corporation and shall generally supervise all its affairs. The CEO/President shall perform such other duties as may be assigned to him or her from time to time by the Board of Directors, but is not eligible to serve as a Director.

## SECTION 8 - SECRETARY.

It shall be the duty of the Secretary to supervise the preparation of minutes of all meetings of the Members and the Board of Directors and its committees, the giving of all notices required to be given by the Corporation, and the keeping of a current list of the Corporation's Members, Directors and Officers and their residence addresses. The Secretary shall be responsible for supervising the preparation and maintenance of the books and records of the Corporation. The Secretary shall attend to such correspondence as may be assigned to him or her and perform all the duties customarily incidental to that office and such other duties as may be assigned to him or her by the Board of Directors or the CEO/President. From time to time, the Board of Directors may designate duties of the Secretary to an appointed Acting Secretary who will perform such duties as may be assigned to him or her.

## SECTION 9 – TREASURER.

It shall be the duty of the Treasurer, as Chief Financial Officer of the Corporation, to oversee the financial affairs of the Corporation, report at each regular meeting of the Board of Directors, and participate in preparing the annual report of the Corporation and the filing of all required tax returns and other regulatory reports. The Treasurer shall perform such other duties as may be assigned to him or her by the Board of Directors or the CEO/President, but is not eligible to serve as a Director. From time to time, the Board of Directors may employ or contract with an appointed Acting Treasurer to whom the Board of Directors may designate certain duties of the Treasurer and other such duties as may be assigned to him or her.

## **ARTICLE VI - CONTRACTS, CHECKS, DRAFTS AND BANK ACCOUNTS**

### SECTION 1 - EXECUTION OF CONTRACTS.

The Board of Directors, except as these By-laws otherwise provide, may authorize any officer or officers, agent or agents, employee or employees, in the name of and on behalf of the Corporation, to enter into any contract or execute and deliver any instrument, and such authority may be general or confined to specific instances; but, unless so authorized by the Board of Directors, or expressly authorized by these By-laws, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable monetarily in any amount for any purpose.

## SECTION 2 - LOANS.

No loans shall be contracted on behalf of the Corporation unless specifically authorized by the Board of Directors.

## SECTION 3 - CHECKS, DRAFTS, ETC.

All checks, drafts and other orders for the payment of money out of the funds of the Corporation, and all notes or other evidences of indebtedness of the Corporation, must be signed on behalf of the Corporation by the CEO/President, the CFO/Treasurer or the Board Chairman. Any such instrument for payment exceeding \$500 must contain two signatures, one of which is of the CEO/President or CFO/Treasurer and the other of which is the Board Chairman.

## SECTION 4 - DEPOSITS.

All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Treasurer may recommend and the Board of Directors approves.

## SECTION 5 - INVESTMENTS.

The Board of Directors may authorize the Corporation to contract with an investment advisor and custodian to manage its investments in accordance with an investment policy established by the Board.

## ARTICLE VII – INDEMNIFICATION AND INSURANCE

### SECTION 1 - AUTHORIZED INDEMNIFICATION.

(a) Unless clearly prohibited by law or otherwise in these By-laws, the Corporation shall indemnify any person (“Indemnified Person”) made, or threatened to be made, a party in any action or proceeding, whether civil, criminal, administrative, investigative or otherwise, including any action by or in the right of the Corporation, by reason of the fact that he or she (or his testator or intestate), whether before or after adoption of this Section:

(i) is or was a Director or Officer of the Corporation; or

(ii) in addition is serving or served, in any capacity, at the request of the Corporation, as Director or Officer of any other corporation, or any partnership, joint venture, trust, Employee benefit plan or other enterprise.

(b) The indemnification shall be against all judgments, fines, penalties, amounts paid in settlement (provided the Corporation shall have consented to such settlement) and reasonable expenses, including attorneys’ fees and costs of investigation, incurred by an Indemnified Person with respect to any such threatened or actual proceeding, and any appeal thereof.

## SECTION 2 - PROHIBITED INDEMNIFICATION.

The Corporation shall not indemnify any person if a judgment or other final adjudication adverse to the Indemnified Person (or to the person whose actions are the basis for the action or proceeding) establishes, or the Board in good faith determines, that such person's acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled.

## SECTION 3 - ADVANCEMENT OF EXPENSES.

The Corporation shall, on request of any Indemnified Person who is or may be entitled to be indemnified by the Corporation, pay or promptly reimburse the Indemnified Person's reasonably incurred expenses in connection with a threatened or actual action or proceeding prior to its final disposition. However, no such advancement of expenses shall be made unless the Indemnified Person makes a binding, written commitment to repay the Corporation, with interest, for any amount advanced for which it is ultimately determined that he or she is not entitled to be indemnified under the law or otherwise in these By-laws. An Indemnified Person shall cooperate in good faith with any request by the Corporation that common legal counsel be used by the parties to such action or proceeding who are similarly situated unless it would be inappropriate to do so because of actual or potential conflicts between the parties.

## SECTION 4 - INDEMNIFICATION OF OTHERS.

Unless clearly prohibited by law or otherwise in these By-laws, the Board may approve Corporation indemnification and/or advancement of expenses as set forth in this Article at Sections 1 and 3 to a person (or the testator or intestate of a person) who is or was employed by the Corporation or who is or was a volunteer for the Corporation, and who is made, or threatened to be made, a party in any action or proceeding, by reason of the fact of such employment or volunteer activity, including actions undertaken in connection with service at the request of the Corporation in any capacity for any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise.

## SECTION 5 - DETERMINATION OF INDEMNIFICATION.

Indemnification mandated by a final order of a court of competent jurisdiction will be paid. After termination or disposition of any actual or threatened action or proceeding against an Indemnified Person, if indemnification has not been ordered by the court the Board shall, upon written request by the Indemnified Person, determine whether and to what extent indemnification is permitted pursuant to these By-laws. Before indemnification can occur the Board must explicitly find that such indemnification will not violate Section 2 of this Article. No Director or Officer with a personal interest in the outcome, or who is a party to such actual or threatened action or proceeding concerning which indemnification is sought, shall participate in this determination. If a quorum of disinterested Directors is not obtainable, the Board shall act only after receiving the opinion of independent legal counsel that indemnification is proper under the circumstances and these By-laws.



#### SECTION 6 - BINDING EFFECT.

Any person entitled to indemnification under these By-laws has a legally enforceable right to indemnification, which cannot be abridged by amendment of these By-laws with respect to any event, action or omission occurring prior to the date of such amendment.

#### SECTION 7 - INSURANCE.

The Corporation is authorized to purchase Directors' and Officers' liability insurance, if approved by the Board. To the extent permitted by law, such insurance may insure the Corporation for any obligation it incurs as a result of this Article or operation of law and it may insure directly the Directors, Officers, employees or volunteers of the Corporation for liabilities against which they are not entitled to indemnification under this Article as well as for liabilities against which they are not entitled or permitted to be indemnified by the Corporation.

#### SECTION 8 - NON-EXCLUSIVE RIGHTS.

The provisions of this Article shall not limit or exclude any other rights to which any person may be entitled under law or contract. The Board is authorized to enter into agreements on behalf of the Corporation with any Director, Officer, employee or volunteer and provide them rights to indemnification or advancement of expenses in connection with potential indemnification in addition to the provisions therefore in this Article, subject in all cases to the limitations of Section 2 of this Article.

### ARTICLE VIII - GENERAL

#### SECTION 1 - BOOKS AND RECORDS.

There shall be kept by the Corporation: (1) correct and complete books and records of account; (2) minutes and statements of written action by the Members; (3) minutes of the proceedings of the Board of Directors and its committees; (4) a current list of the Members, Directors and officers of the Corporation and their residence addresses; (5) a copy of the Certificate of Incorporation; and (6) a copy of these By-laws.

#### SECTION 2 - INTERESTED DIRECTORS AND OFFICERS.

The Board of Directors may adopt a policy regarding conflicts of interest which shall apply to all Directors and Officers.

#### SECTION 3 - TERM OF FISCAL YEAR.

The fiscal year of the Corporation shall commence on the first day of January of each calendar year and end on the last day of December.

**ARTICLE IX - RULES OF ORDER AND BY-LAW AMENDMENTS**

**SECTION 1 - RULES OF ORDER.**

Meetings of the Members and/or the Board of Directors and its committees shall be governed by Robert's Rules of Order, except in cases otherwise provided for by these By-laws.

**SECTION 2 – BY-LAW AMENDMENTS.**

These By-laws may be amended, repealed or adopted only by an affirmative vote of five (5) out of seven (7) of the Directors of the Board.