

# **PROPOSED REVISIONS (DRAFT DATE 10.21.2016)**

## **WESTERN VIRGINIA REGIONAL INDUSTRIAL FACILITY AUTHORITY**

### **BYLAWS**

**WHEREAS**, pursuant to the Virginia Regional Industrial Facilities Act, Chapter 64, Title 15.2 Code of Virginia 1950, as amended, the governing bodies of the County of Roanoke, the County of Botetourt, the County of Franklin, the City of Roanoke, the City of Salem, and the Town of Vinton (collectively, “Member Localities” and singularly, a “Member Locality”) have established Western Virginia Regional Industrial Facility Authority (the “Authority”) for the purposes of providing a mechanism for localities in a region to cooperate in economic development projects within their region; and

**WHEREAS**, the Authority desires to adopt bylaws governing the manner in which the Authority’s business may be transacted and in which the power granted to it may be enjoyed.

**NOW THEREFORE, BE IT RESOLVED** by Board of the Authority that the following bylaws are hereby adopted:

### **BYLAWS**

## **WESTERN VIRGINIA REGIONAL INDUSTRIAL FACILITY AUTHORITY**

### **ARTICLE I**

#### **INTERPRETIVE PROVISIONS AND PURPOSE**

##### **Section 1.1 Interpretive Provisions.**

Terms used herein without definition shall have the meanings specified for such terms in *the Code of Virginia as amended, in Title 15.2 a chapter numbered 64, consisting of sections numbered 15.2-6400 through 15.2-6416, relating to the Virginia Regional Industrial Facilities Act*. Definitions, terms and other interpretive provisions set forth in the ordinances adopted by the Member Localities to create the Authority and the agreement to form the Authority executed on December 11, 2013 (the “Agreement”) are equally applicable to these Bylaws.

##### **Section 1.2 Purposes.**

The Authority has been created by the member partners pursuant to and shall be organized and operated in accordance with Title 15.2, Chapter 64 of the Code of Virginia, 1950, as amended, also known as the Virginia Regional Industrial Facilities Act (the “Act”) as the same may be amended from time to time, and the Agreement.

The Authority has been established for the following purposes and functions:

1. The economic region of the Authority has not kept pace with other regions of the Commonwealth. The Authority provides a mechanism for the Member Localities to cooperate in the development of Facilities which will assist the region in overcoming this barrier to economic growth.

2. The exercise of the power granted to the Authority by the Act shall be in all aspects for the benefit of the inhabitants of the region for their commerce, and for the promotion of their safety, health, welfare, convenience and prosperity, including the development of opportunities for each of the Member Localities to establish successful partnerships for the development of economic projects which will serve the region.

## ARTICLE II

### SEAL

The seal of the Authority shall be circular and shall have inscribed thereon, within and around the circumference, the following: “WESTERN VIRGINIA REGIONAL INDUSTRIAL FACILITY AUTHORITY” and in the center shall be the word “SEAL”.

## ARTICLE III

### AUTHORITY BOARD

#### Section 3.1 Board of Directors.

The Board of Directors of the Authority (the “Board”) shall have twelve (12) members (each a “Board Member” and collectively, the “Board Members”) and twelve (12) alternate Board Members as provided by the Act and the Agreement. ~~The principal office of the Board shall be maintained at the offices of the Roanoke Regional Partnership, 111 Franklin Road, S.E., Roanoke, Virginia 24011.~~ **The principal office of the Board shall be maintained at the offices of the Roanoke Valley-Alleghany Regional Commission, 313 Luck Avenue, SW, Roanoke, VA 24016.** All records of the Board shall be kept at such office. The financial and operating records, including minutes of Board meetings, shall be open and subject to inspection as required by the Virginia Freedom of Information Act, Section 2.2-3700 et. seq., Code of Virginia (1950) as amended.

#### Section 3.2 Terms of Board Members.

The Board Members shall serve for terms of two (2) years or four (4) years as set forth in the Agreement. The initial terms of Board Members shall commence as of the date of the certification by the Secretary of the Commonwealth that the ordinances required by the Code of Virginia have been filed.

**ARTICLE IV  
GENERAL POWERS AND DUTIES**

**Section 4.1 Powers and Duties of the Board Members**

The business and affairs of the Authority shall be governed by the Board Members, for the terms of office set forth in the Agreement and the Act. The Board Members shall have all of the powers and duties necessary for the administration of the affairs of the Authority and may do all such acts and things as are required by the Act or the Agreement to be exercised and done by the Board Members. The Board may delegate to an Executive Director employed for such purpose the authority to act on behalf of the Board on such matters relating to the duties, as defined in Section 4.1, if any, which may arise between meetings of the Board or as the Board deems appropriate.

**ARTICLE V  
MEETINGS OF BOARD AND COMMITTEES**

**Section 5.1 Types of Meetings.**

The December meeting of the Board shall include election of officers, appointment of committee members, and establishment of operations of the Board for the ensuing calendar year. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Board Members. Special meetings of the Board shall be called by the Chairman upon the written request of Board Members representing at least two (2) of the Member Localities. A request for a Special Meeting shall specify the time, place, and subject matters of the special Meeting. The Chairman shall provide each Board Member with written or telephonic notice of the Special Meeting. No matter not specific in the request for the Special Meeting shall be considered at such Special Meeting unless all Board Members are present. All meetings of the Board or any Committee shall be open to the public, except that the Chairman or presiding officer or Chairman of a committee may call the board or committee into closed session as provided in the Code of Virginia. The Board or any committee may hold their meetings in the Commonwealth of Virginia or outside the State as the Board may from time to time determine.

**Section 5.2 Notice.**

Notice of meetings shall be given to each Member or committee member, as appropriate, personally or by mail, email, or telephone, orally or in writing, at least three business days prior to the day named for such meeting. Such notice shall state the place, day and time and, in the case of special meetings, the purpose thereof.

**Section 5.3 Waiver of Notice.**

Any Member or committee member, as appropriate, may at any time, in writing, waive notice of any meeting of the Board, and such waiver shall be deemed equivalent to the giving of such notice. Attendance at any meeting shall constitute a waiver of notice of the time, place and purpose of such meeting.

**Section 5.4 Quorum.**

At all meetings of the Board, a majority of the Member Localities that are represented by at least one (1) Board Member, shall constitute a quorum for the transaction of business, and a majority vote while a quorum is present shall constitute the decision of the Board. If at any meeting there is less than a quorum present, a majority of those present may adjourn or recess the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

**Section 5.5 Conduct of Meetings.**

The Chairman shall preside over meetings of the Board and the Secretary shall keep the minutes of the meetings and record all motions and resolutions adopted at the meetings and proceedings occurring at the meetings. The chairman of a committee shall preside over the meeting of the committee and may appoint any member of committee to keep minutes. The current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Board or committee when not in conflict with the Act or the Agreement.

**ARTICLE VI  
OFFICERS**

**Section 6.1 Designation and Duties of Officers.**

The principal Officers of the Authority shall be the Chairman, the Vice Chairman, the Secretary and the Treasurer, all of whom shall be elected by the Board and shall be Members. The offices of Secretary and Treasurer may be combined. The Board may also appoint an assistant treasurer, an assistant secretary and such other positions as in its judgment may be necessary. The holders of such other positions shall not be Members. Each Officer shall perform such duties as are normally associated with such office in parliamentary organizations, except to the extent (if any) inconsistent with the Act or the Agreement, and shall perform such other duties as may be assigned to such office by resolution of the Board. If any Officer is unable for any reason to perform the duties of the office, the Chairman may appoint another qualified person to act in such Officer's stead on an interim basis.

**Section 6.2 Election of Officers and Term.**

The Officers of the Authority are elected for one-year terms for each calendar year by the Board. The term shall run from January 1 of the first year through December 31 after initial incorporation terms. The offices of Chairman, Vice Chairman and Secretary shall be held by three different individuals all of whom shall also be members of the Board. Except for death, resignation or removal, the Officers shall hold office until their respective successors shall have been elected by the Board.

**Section 6.3 Resignation or Removal of Officers.**

Any Officer may resign by delivering written notice to the Board. Unless otherwise specified, such resignation shall take effect upon the receipt thereof, and acceptance of such resignation shall not be necessary to make it effective. Upon the affirmative vote of a majority of the total number of members, any Officer may be removed, either with or without cause, and a successor

may be elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

**Section 6.4 Vacancies.**

A vacancy in any office shall be filled by appointment of the Board for the remainder of the term of the office.

**Section 6.5 Chairman.**

The Chairman shall be the chief executive officer of the Authority; preside at all meetings of the Authority; have general and active direction of the business of the Authority subject to the control of the Board; see to the execution of the resolutions of the Board; see that all orders and resolutions of the Board are carried into effect; and, in general, perform all the duties incident to the Office of Chairman.

**Section 6.6 Vice Chairman.**

The Vice Chairman shall take the place of the Chairman and perform the duties of the Chairman whenever the Chairman shall be absent or unable to act. If neither the Chairman nor the Vice Chairman is able to act, the Board shall appoint some other director to act in the place of the Chairman, on an interim basis. The Vice Chairman shall also perform such other duties as shall from time to time be imposed by the Board or by the Chairman.

**Section 6.7 Secretary.**

The Secretary shall keep the minutes of all meetings of the Authority and of the Board; have charge of such books and papers as the Board may make it possible for any member to inspect and copy at reasonable times and by appointment the records of the Authority; and, in general, perform all the duties incident to the Office of Secretary.

**Section 6.8 Treasurer.**

The Treasurer shall be responsible for Authority funds and securities; keep full and accurate financial records and books of account showing all receipts and disbursements; prepare or cause to be prepared all required financial data, deposit all monies and other valuable effects in the name of the Authority, in such depositories as may from time to time be designated by the Board; and, in general, perform all the duties incident to the office of Treasurer.

**ARTICLE VII  
ADMINISTRATION**

**Section 7.1 Executive Director and Staffing.**

The Board may employ or contract for the purpose of administering the Authority's business an Executive Director. The Authority may authorize such additional staffing as may be required to carry out its purposes. Compensation for the Executive Director and any staff required for the functioning of Authority business is to be established by the Board.

**Section 7.2 Requirements.**

The Executive Director shall possess a high level of competence in the technical skills

necessary for proper management of the Authority's property. The Executive Director must be able to advise the Board regarding the administrative operation of the Property and may employ personnel knowledgeable in the areas necessary to the functioning of the Authority's business. Otherwise, the Executive Director may be a full-time employee of the Authority who shall organize, staff, train and administer the in-house personnel solely to manage the Property.

**Section 7.3 Duties.**

The Executive Director shall perform such duties and services as the Board shall direct.

**Section 7.4 Standards.**

The Board shall impose appropriate standards of performance upon the Executive Director. Unless the Executive Director is instructed otherwise by the Board, the following shall apply:

- 1) the accrual method of accounting will be employed;
- 2) two or more persons shall be responsible for handling cash to maintain adequate financial control procedures;
- 3) accounts of the Authority shall not be comingled with any other entity's accounts;
- 4) no remuneration shall be accepted by the Executive Director or staff from vendors, independent contractors or others providing goods or services to the Authority whether in the form of commissions, finders fees, service fees or otherwise; any discounts received shall benefit the Authority;
- 5) any financial or other interest which the Executive Director or any other employee may have in any firm providing goods or services to the Authority shall be disclosed promptly to the Board; and
- 6) a financial report shall be prepared for the Authority monthly, containing: (i) an "income statement" reflecting all income and expense activity for the preceding period on an accrual basis; (ii) an "account activity statement" reflecting all receipt and disbursement activity for the preceding period on a cash basis; (iii) a "account status report" reflecting the status of all accounts in an "actual" versus "projected" (budget) format; (iv) a "balance sheet" reflecting the financial condition of the Authority on an unaudited basis; (v) a "budget report" reflecting any actual or pending obligations which are in excess of budgeted amounts by an amount exceeding the operating reserves or ten percent of a major budget category (as distinct from a specific line item in an expanded chart of accounts); and (vi) a "delinquency report" listing all owners who are delinquent in paying assessments and describing the status of any actions to collect such assessments.

**ARTICLE VIII  
COMMITTEES**

**Section 8.1 Committees.**

The Board may create and abolish from time to time committees consisting of two or more persons as the Board may deem appropriate to aid in the administration of the affairs of the Authority. Such committees shall have the powers and duties fixed by resolution of the Board from time to time. The Board shall appoint the chair of each committee, and may either appoint the other members thereof or leave such appointment to the committee chair.

**ARTICLE IX  
FIDUCIARY DUTIES**

**Section 9.1 Execution of Documents.**

Unless otherwise provided in the resolution of the Board, the Board shall provide for the execution of all agreements, contracts, deeds, leases, and other instruments of the Authority. All checks drawn upon accounts of the Authority shall be executed by any two persons designated by the Board.

**Checks drawn upon accounts of the Authority shall be executed via single signature by the Chair, Vice Chair, Treasurer, Assistant Treasurer, or Executive Director if under \$5,000. Checks \$5,000 or greater must be signed by two of the aforementioned authorized individuals.**

**Section 9.2 Conflicts of Interest.**

- a) Rule and Exceptions. Each Board Member or Officer shall exercise such Board Member's or Officer's powers and duties in good faith and in the best interests of the Authority. No contract or other transaction between the Authority and any of its Board Members or Officers, or between the Authority and any corporation, firm or Authority in which any of the Board Members or Officers of the Authority are directors or officers or are pecuniary or otherwise interested, is either void or voidable because of such relationship or because any such Member or Officer is present at the meeting of the Board or any committee thereof which authorizes or approves the contract or transaction or because such Board Member's or Officer's vote is counted for such purpose if any of the following conditions exist: (1) the material facts of the transaction and the common directorate or interest is disclosed or known to the Board or a majority thereof, and the Board authorizes, approves or ratifies such contract or transaction in good faith by a majority of Members entitled to vote on the transaction, but in no event may such a transaction be authorized, approved or ratified by a single Board Member; (2) the material facts of the transaction and the common directorate or interest is disclosed or known to all of the Board Members entitled to vote on the matter, and the Board Members who are entitled to be counted in a vote on the transaction approve or ratify the contract or transaction by a majority of the total number of votes entitled to be cast; or (3) the contract or transaction is commercially reasonable to the Authority in view of all the facts known to any Board Member or Officer at the time such contract or transaction is authorized, ratified, approved or executed.
- b) Vote Not Counted. Any common or interested Board Member or Officers may be counted in determining the presence of a quorum of any meeting of the Board, a committee thereof,

or the members which authorizes, approves or ratifies any contract or transaction, but such Board Member's vote shall not be counted with respect to any matter as to which such Board Member would have a conflict of interest; such Board Member may vote, however, at the meeting to authorize any other contract or transaction.

### **Section 9.3 Liability and Indemnification.**

- a) No Personal Liability. The Board Members, Officers and the members of the governing bodies of the localities which incorporated the Authority shall not be liable to the Authority or any locality for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. Board Members and Officers shall have no personal liability with respect to any contract made by them on behalf of the Authority. No Board Member or Officer shall be liable for the contract or tort liability of the Authority. Every agreement made by the Board Members, the Officers or the Executive Director on behalf of the Authority shall, if obtainable, provide that the Members, the Officers or the Executive Director, as the case may be, are acting only as agents for the Authority and shall have no personal liability thereunder.
- b) Indemnification. The Authority shall indemnify the Board Members, and Officers provided that before the Authority uses Authority funds for indemnification, all insurance proceeds must be obtained and applied toward such indemnification.
- c) Directors and Officers Liability Insurance. The Authority shall purchase and maintain insurance on behalf of any person who is or was a Board Member, or Officer against any liability asserted against such person and incurred by such person in such capacity or arising out of such person's status with the Authority. Further, the availability of the Authority's indemnity shall not relieve any insurer of any liability under an insurance policy held by the Authority.

### **Section 9.4 Compensation of Members and Officers.**

No salary or other compensation shall be paid by the Authority to any Board Member or Officer of the Authority for serving or acting as such. Notwithstanding the foregoing, Board Members shall be reimbursed for actual expenses incurred in the performance of their duties from funds available to the Authority.

## **ARTICLE X BOOKS AND RECORDS**

### **Section 10.1 Maintenance.**

The Authority shall keep books and records as required. All books and records shall be kept in accordance with generally accepted accounting principles, and the same shall be audited at least once a year by an auditor retained by the Board.

### **Section 10.2 Availability.**

The books and records of the Authority shall be available for examination during general

business hours on business days. The Board may fix from time to time a reasonable charge to cover the direct and indirect costs of providing any documents.

**Section 10.3 Accounting Report.**

Within one hundred twenty days after the end of each fiscal year, the Board shall make available to all Board Members requesting the same, an itemized accounting of the expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Board for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves.

Within one hundred twenty days after the end of each fiscal year, the Board shall submit an annual report of the Authority's activities of the preceding year to the governing body of each Member Locality. Each report shall set forth a complete operating and financial statement covering the operation of the Authority during such year.

**Section 10.4 Fiscal Year.**

The first fiscal year of the Authority shall begin on the date of incorporation and end on the last day of June, unless otherwise determined by the Board. Each subsequent fiscal year shall commence on July 1 and end on June 30.

**ARTICLE XI  
DISSOLUTION**

**Section 11.1 Policy Statement on Withdrawal by a Member Locality.**

Section 15.2-6415, Code of Virginia, as amended, establishes the procedures under which a Member Locality may withdraw from the Authority. It is the intent of the Member Localities to allow a Member Locality to withdraw, provided the procedures set forth in Section 15.2-6415, Code of Virginia, as amended, and these Bylaws are satisfied.

**Section 11.2 Procedure to Withdraw from Authority.**

In order for any Member Locality to withdraw from the Authority, such Member Locality must provide thirty (30) days written notice to all other Member Localities and the Chairman of the Authority of its intent to withdraw from the Authority and shall, after giving such notice of withdrawal satisfy such Member Locality's legal obligation, including repayment of its portion of any debt increased with refund to the Authority, or after making contractual provisions for the repayment of its portion of any debt incurred with refund to the Authority, as well as pledging to pay any general dues for operation of the Authority for the current and preceding fiscal year following the effective date of withdrawal. Such notice of withdrawal shall include an attested copy of the resolution adopted by the governing body of the Member Locality seeking withdrawal.

**Section 11.3 Approval by other Member Localities.**

Upon receipt of the notification of a Member Locality's intent to withdraw from the Authority, each other Member Locality shall consider such request and advise the Chairman, in writing, whether such Member Locality approves such withdrawal.

**Section 11.4 Retention of rights by withdrawing Member Locality.**

No Member Locality seeking withdrawal from the Authority shall retain, without the consent of a majority of the remaining Member localities, any rights to contributions made by such Member locality, to any property held by the Authority or to any revenue sharing as allowed by the Act.

**Section 11.5 Return of refunds by withdrawing Member Locality.**

Upon withdrawal, the withdrawing Member Locality shall also return to the Authority any dues or other contributions refunded to such Member locality during its membership in the Authority.

**ARTICLE XI  
AMENDMENTS**

These Bylaws may be amended by a majority vote of the members of the Board at any regular or special meeting of the Board upon ten (10) days written notice of such amendment.

UNANIMOUSLY ADOPTED at the organizational meeting of Western Virginia Regional Industrial Facility held on the 27th day of February, 2014.

APPROVED:

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Board Member

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Attest:

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Secretary of the Board

SEAL