



**AMENDED AND RESTATED
BY-LAWS AND APPLICATION RULES OF
ECONOMIC DEVELOPMENT AUTHORITY OF
ISLE OF WIGHT COUNTY**

ADOPTED MARCH 10, 2015

The By-Laws and Application Rules of the Economic Development Authority of Isle of Wight County are hereby amended and restated in their entirety as follows:

ARTICLE 1 – ESTABLISHMENT OF AUTHORITY

SEC. 1-1. CREATION.

The Economic Development Authority of Isle of Wight County was created by the Board of Supervisors of Isle of Wight County (the "Board") on June 6, 1968 pursuant to the Industrial Development and Revenue Bond Act as now set forth in Title 15.2, Chapter 49, Section 15.2-4900 *et seq.* of the Code of Virginia (1950, as amended) (the "Act").

SEC. 1-2. NAME.

The name of the Authority is the Economic Development Authority of Isle of Wight County hereinafter referred to as the "Authority".

SEC. 1-3. PURPOSE.

The purpose of the Authority is to provide for all those intended purposes and powers as set forth in the Act which shall be performed for the benefit of the citizens of Isle of Wight County, Virginia, as well as the Commonwealth of Virginia.

ARTICLE 2 – BOARD OF DIRECTORS

SEC. 2-1. BOARD OF DIRECTORS.

The Authority shall be governed by a Board of Directors in which all powers of the Authority shall be vested.

SEC. 2-2. NUMBER, APPOINTMENT AND TERMS.

The Board of Directors shall be comprised of seven (7) residents of Isle of Wight County, Virginia who shall have been appointed by the Board for a term of four (4) years each, such terms to be staggered as required by the Act. Each Director so appointed shall serve until his or her their duly qualified successor is appointed by the Board. Each Director, before entering upon his or her duties by appointment or reappointment, shall take and subscribe to the oath prescribed by Section 49-1 of the Code of Virginia (1950, as amended). No Director shall be an officer or employee of Isle of Wight County.

SEC. 2-3. VACANCIES.

Appointments to fill vacancies shall be made by the Board which shall be for the unexpired term of the vacancy. It shall be the duty of the Chairman, or in the absence of the Chairman, the Vice Chairman, to notify the Board of any vacancy for an unexpired term promptly and to recommend nominees for this vacancy.

SEC. 2-4. ELECTION OF OFFICERS.

The Directors at their annual organizational meeting in May of each year shall elect from their membership a Chairman, a Vice Chairman, and from their membership or not, as they desire, a Secretary and a Treasurer, or a Secretary/Treasurer.

SEC. 2-5. DUTIES OF OFFICERS.

The duties of officers shall include, but not be limited to, the following:

- A. Chairman: The Chairman shall preside at all meetings, be responsible for all correspondence, make committee appointments as necessary, appoint Directors as liaison to other county governmental agencies, authorities and/or commissions, act as a signatory as authorized, propose policies and long range objectives and have overall responsibility for accomplishing the goals and purposes of the Authority.
- B. Vice Chairman: In the absence of the Chairman, the Vice Chairman shall have full responsibility and/or authority for those items set forth in Section 2-5(A) above.
- C. Secretary: The Secretary shall be responsible for notice of meetings to the Directors, the taking of the minutes at all meetings and act as attesting authority and signatory as authorized.
- D. Treasurer: The Treasurer shall be responsible for establishing a budget and for the keeping of all financial records of the Authority, and shall act as a signatory as authorized.

SEC. 2-6. QUORUM.

Four Directors shall constitute a quorum of the Board of Directors (which must be maintained throughout the entire meeting) for the purposes of conducting its business and exercising its power and for all other purposes, except that no facilities owned by the Authority shall be leased or disposed of in any manner without a majority vote of the members of the Board of Directors. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the powers and perform all the duties of the Board of Directors. Any tie vote shall be deemed to be a negative vote.

SEC. 2-7. ELECTION OF TEMPORARY PRESIDING OFFICER.

When a quorum is present for a regularly scheduled or specially called meeting and the Chairman and Vice Chairman are absent, the quorum in attendance may elect a temporary presiding officer to chair that meeting only. The election of a temporary presiding officer to chair a specific meeting for which the Chairman and Vice Chairman are not available

will not in any way whatsoever invalidate or restrict the actions, directives or the authority of the duly elected Chairman and Vice Chairman.

SEC. 2-8. VOTING.

Voting shall be by roll call vote when required by law and otherwise by voice vote, in each case of those present at any duly constituted meeting.

SEC. 2-9. MEETING AND NOTICES.

Regular meetings of the Board of Directors shall be held on the second Tuesday of every month at such time as may be designated by the Authority in the Robert C. Claud Board Room or upon the call of the Chairman or the Secretary, or upon the call of a majority of the Directors. All meetings shall be open to the public, unless otherwise authorized by law, and shall be held upon such notice as required by law. Notice of any meeting not held at a time fixed by these By-Laws or by a resolution of the Board shall be given to each Director at least twenty-four (24) hours before the meeting by delivering such notice to him or her at his or her residence or business address or by electronic means, but need not contain the purpose of any meeting unless such purpose is to amend these By-Laws. Meetings may be held without notice if all the Directors are present or those not present waive notice before or after the meeting.

SEC. 2-10. MINUTES.

The Authority shall keep detailed minutes of its proceedings.

SEC. 2-11. FINANCIAL TRANSACTIONS.

The Authority shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually. Copies of each audit shall be furnished to the Board and shall be open to public inspection.

SEC. 2-12. MEETING FORMAT.

The format of all regular meetings of the Authority may be as follows:

1. Record Attendance.
2. Reading, approval and/or correction of any unapproved minutes.
3. Public Hearings (as required)
4. Inducement Resolution(s)
5. Treasurer's Report
6. Reports of officers and committees.
7. Unfinished business.
8. New business.
9. Adjournment.

ARTICLE 3 – GENERAL PROVISIONS

SEC. 3-1. COMPENSATION FOR DIRECTORS.

Members of the Board of Directors of the Authority shall receive no salary but such members may be compensated in such amount per meeting or official representation as may be approved by the Board not to exceed the limit imposed by the Act per meeting or official representation, and shall be reimbursed for necessary travel and training incurred while in the performance of their duties.

SEC. 3-2. SEAL.

The corporate seal of the Authority shall consist of two concentric circles between which contain the name of the Authority and in the center shall be inscribed the word "Seal".

SEC. 3-3. CHECKS, NOTES, DRAFTS AND OTHER LEGAL DOCUMENTS.

Checks, notes, drafts and other legal documents shall be signed by the Chairman, or Vice Chairman in the absence of the Chair, or such other person(s) as the Board of Directors from time to time may authorize or as may be required by the Act.

SEC. 3-4. RULES AND ORDER.

Robert's Rules of Order shall be parliamentary authority for all matters of procedure not specifically covered by these By-Laws.

SEC. 3-5. AMENDMENTS.

These By-Laws or rules and procedures may be amended, repealed or altered, in whole or in part by a majority vote of the Directors at any regular meeting or at any special meeting where such action has been announced in the call and notice of such meeting.

SEC. 3-6. INCORPORATION BY REFERENCE.

The provisions of the Act, as hereinafter amended, are hereby adopted and incorporated by reference as if fully set out herein and shall govern the actions of the Authority, any provision to the contrary contained in these By-Laws notwithstanding.

ARTICLE 4 – APPLICATION RULES AND PROCEDURES

SEC. 4-1. PURPOSE AND SCOPE.

(a) The provisions of this Article 4 shall govern the submission of applications to the Authority, application and administrative fees, consideration of matters to be brought to

the attention of the Authority relating to the authorization, issuance and sale of its bonds and approval of financing documents, and such other matters as are contained herein.

(b) These provisions are supplementary to the provisions contained in Articles 1 through 3 above. In the event of any conflict between the provisions of Articles 1 through 3 above and this Article 4, the provisions of Articles 1 through 3 shall prevail.

SEC. 4-2. DEFINITIONS.

As used in this Article 4, the following terms shall have the meanings set forth herein, unless the context clearly requires otherwise:

(a) "Act" shall mean the Industrial Development and Revenue Bond Act, Title 15.2, Chapter 49 of the Code of Virginia (1950, as amended).

(b) "Applicant" shall mean any individual, person, firm, corporation, partnership or other entity applying for industrial development revenue bond financing, or for whose benefit the Authority has issued its Bonds, or who requests the Authority to take any action.

(c) "Application" shall mean the Authority's application for industrial development revenue bond financing as in effect from time to time.

(d) "Authority" shall mean the Economic Development Authority of Isle of Wight County, a political subdivision of the Commonwealth of Virginia.

(e) "Bond" shall mean any note, bond and other obligation authorized to be issued by the Authority pursuant to the Act. The term "Bond" may also mean "Bonds" where applicable.

(f) "Code" shall mean the Internal Revenue Code of 1986, as amended.

(g) "Financing Documents" shall mean any resolutions, instruments, documents, papers, elections, certifications or financing statements required to be adopted or authorized, executed and delivered by the Authority in connection with the authorization, issuance and sale of its Bonds.

(h) "Project" shall mean any land, improvements, machinery, equipment or property financed in accordance with the Act by the issuance and sale of the Authority's Bonds.

(i) "Rules" shall mean these rules and procedures of the Authority, as set forth in this Article 4, as they may be in effect from time to time.

SEC. 4-3. GENERAL PROVISIONS.

(a) Copies to be Provided Applicants: A copy of the Rules shall be furnished by the Authority's Secretary or designee to each Applicant.

(b) Compliance with Rules and Procedures: Each Applicant shall comply with the Rules in the submission of its Application or any Financing Documents to the Authority and in requesting that the Authority take any action, including the approval of Financing Documents. Failure to comply with the Rules shall constitute sufficient reason for the Authority to refuse to consider any Application, to approve Financing Documents or any other matter to be brought before the Authority by or on behalf of any Applicant.

(c) Amendments: The Rules may be amended from time to time by the Authority as set forth in Section 3-5 above.

SEC. 4-4. APPLICATION PROCEDURES; FEES; REQUIREMENTS.

(a) Applications: Each Applicant shall submit a fully and accurately completed Application to the Authority's Secretary at least fifteen (15) days before the Authority's meeting at which the Application is to be considered. Each Applicant shall include all requested exhibits. In the event all requested exhibits are not available, a statement of explanation will be attached to the Application. Unless the Applicant provides a financing commitment from a financial institution qualified to do business in Virginia or the Bonds will be offered to the public in accordance with paragraph (i) of this Section, the Applicant shall furnish the financial information required by the Application or, if the Applicant is a new or recently formed business entity, without recent financial statements, the Applicant shall furnish the financial information required by the Application for each principal shareholder, partner or other principal of the Applicant. Further, unless the Applicant provides a financing commitment from a financial institution qualified to do business in Virginia or the Bonds will be offered to the public in accordance with paragraph (i) of this Section, if the Applicant is a subsidiary corporation without its own financial statements, financial statements of the parent corporation or consolidated financial statements may be submitted in lieu of financial statements for the Applicant. Additionally, unless the Applicant provides a financing commitment from a financial institution qualified to do business in Virginia or the Bonds will be offered to the public in accordance with paragraph (i) of this Section, if the obligations of the Applicant will be guaranteed by any person or a business entity, then financial statements of such guarantor shall also be included with the Application. Finally, unless the Bonds will be offered to the public in accordance with paragraph (i) of this Section, Project pro forma financial statements, if available, should be submitted with an Application. At the written request of the Applicant, all financial statements submitted by such Applicant shall not be subject to disclosure under the Virginia Freedom of Information Act.

(b) Application Fees: The Authority charges an application fee of Five Hundred Dollars (\$500.00). The application fee shall be paid to the Authority prior to consideration of the inducement resolution by the Authority. Application fees, upon acceptance by the Authority, are non-refundable. No interest shall be paid on application fees held by the Authority.

(c) Notices. The Applicant shall be responsible for the publication of any newspaper notice of public hearing with respect to the Bond, for the timeliness and completeness thereof and for the expenses related thereto.

(d) Administrative Fees:

(1) An Applicant seeking and eligible for the issuance of qualified 501(c)(3) Bonds under Section 145 of the Code by the Authority shall pay an annual administrative fee equal to $\frac{1}{8}$ th of 1% of the outstanding principal balance of the Bond payable on July 1 of each year, beginning on July 1 of the year following the first anniversary of the issuance of the Bonds until payment of the Bond in full, or, at the election of the Applicant, in lieu thereof, a one-time administrative fee due and payable at Bond closing. Such one-time administrative fee (i) shall be equal to the net present value of the cash flow derived from payments on an annual administrative fee in the amount set forth in clause (iii) below and payable on July 1 of each year, beginning on July 1 of the year following the first anniversary of the issuance of the Bond during the period the Bond is outstanding, (ii) shall be calculated using an annual discount rate equal to the yield of the Bonds as calculated in accordance with Section 148 of the Code by bond counsel or the initial purchaser or underwriters of the Bond, as applicable, and (iii) shall be based upon an annual fee equal to the sum of (A) $\frac{1}{8}$ th of 1% on the first \$10,000,000 of the outstanding principal balance of the Bond to be paid in accordance with the payment terms of the Bond and (B) $\frac{1}{16}$ th of 1% on the remaining outstanding principal balance of the Bond to be paid in accordance with the payment terms of the Bond. In all cases, the Authority will cap up-front fees at \$100,000, regardless of the size of the issue.

(2) Any Applicant seeking and eligible for the issuance of all other types of Bonds by the Authority shall pay an annual administrative fee equal to $\frac{1}{8}$ th of 1% of the outstanding principal balance of the Bond payable on July 1 of each year, beginning on July 1 of the year following the first anniversary of the issuance of the Bond until payment of the Bond in full, or, at the election of the Applicant, in lieu thereof, a one-time administrative fee due and payable at Bond closing. Such one-time administrative fee (i) shall be equal to the net present value of the cash flow derived from payments on an annual administrative fee in the amount set forth in clause (iii) below and payable on July 1 of each year, beginning on July 1 of the year following the first anniversary of the issuance of the Bond during the period the Bond is outstanding, (ii) shall be calculated using an annual discount rate equal to the yield of the Bonds as calculated in accordance with Section 148 of the Code by bond counsel or the initial purchaser or underwriters of the Bond, as applicable, and (iii) shall be based upon an annual fee equal to $\frac{1}{8}$ th of 1% of the outstanding principal balance of the Bond to be paid in accordance with the payment terms of the Bond.

(3) The Authority requires reimbursement of its costs and expenses incurred in connection with the issuance and sale of its Bonds and by virtue of its Bonds being outstanding, including the fees and expenses of its counsel.

(4) Upon the payment in full of any Bond or an issue of Bonds, the Authority shall be provided satisfactory evidence of such payment for its records.

(e) Fiscal Impact Statement. Each Application shall include a completed fiscal impact statement as required by the Act.

(f) Transcripts of Proceedings. Each Applicant receiving Bond financing through the Authority shall furnish to the Authority upon the sale and delivery of the Bond, two complete transcripts of the Financing Documents relating to the Bond. One Bond transcript shall be hardback bound in library standard quality binders at the cost and expense of the Applicant and one transcript shall be on a CD with a proper cover identifying the Bond issue.

(g) Bond Validation Proceedings: The Authority, upon advice of counsel, may require that before issuance its Bond be validated by the Circuit Court of Isle of Wight County, Virginia, pursuant to the procedures set forth in the Public Finance Act of 1991. The costs, expenses and fees incurred in connection with any Bond validation proceedings required by the Authority, including attorney's fees, shall be paid by the Applicant.

(h) Additional Information Required of Applicants:

(1) The Authority may adopt an inducement resolution conditioned upon the subsequent furnishing of certain information satisfactory to the Authority. All required information shall be promptly furnished to the Authority and failure of any Applicant to furnish such information shall constitute a ground for rescission of any inducement resolution adopted pursuant to such conditions.

(2) The Authority may, at its option, require the furnishing of appraisals, evaluations or reports respecting the Project or any portion thereof. The Authority may retain advisors and consultants to advise it regarding any Project or other action which it is requested to undertake by any Applicant. All costs, fees and expenses of such appraisals, reports, consultants and advisors shall be paid by the Applicant.

(3) Since the Authority usually acts based upon information furnished to it solely by the Applicant, the Authority reserves the right to require at any time the furnishing of additional information concerning the Applicant, its financial statements, and any other information deemed relevant by the Authority, particularly in instances where the Applicant may have undergone changes in form or management or where the security to be given for payment of the Bond has changed.

(4) Before final approval of the Application, the Applicant must provide the Authority with written commitment for the purchase of the Bond.

(i) Public Offerings of Bonds:

(1) Any Bonds offered to the public under a public sale shall include in its documentation a preliminary and final disclosure document approved by the Authority and its counsel.

(2) Any Bonds subject to the continuing disclosure requirements of the Securities and Exchange Commission shall include in its documentation an agreement, by the party obligated by law to do so, to provide such annual and material event continuing disclosure as is required by law and the Authority shall have no duty and bare no costs in connection therewith.

(j) Allocations. The Authority shall have no responsibility to seek and obtain any allocation for the issuance of Bonds from any governmental authority as required by law and shall bare no costs in connection therewith.

SEC. 4-5. PROVISIONS TO BE INCORPORATED INTO RESOLUTIONS AND FINANCING DOCUMENTS

(a) Inducement Resolutions: Each inducement resolution adopted by the Authority shall provide that it shall continue in full force and effect for a period of two (2) years from its date unless specifically extended by the Authority.

(b) Payment of Authority Expenses: The Financing Documents approved by the Authority for the benefit of any Applicant shall provide that the Applicant agrees to pay all costs, fees and expenses incurred by the Authority (including attorney's fees) in connection with:

(1) The authorization, issuance and sale of the Authority's Bond;

(2) The ownership, occupation, operation or use of the Project being financed whether owned by the Authority or the Applicant;

(3) Prepayment or redemption of the Authority's Bond;

(4) Administrative costs and expenses of the Authority, including the fees of the attorneys, engineers, appraisers, accountants or consultants paid or incurred by the Authority by reason of the Bond being outstanding or pursuant to requirements of the Financing Documents; and

(5) Such other fees and expenses of the Authority, not directly related to the Project being financed for the Applicant, but attributable to the Authority's financing of the Project, including without limitation, a share of costs of the Authority's annual audit as required by Section 15.2-4904 of the Act which shall consist of all costs and fees relating to the annual audit and directly attributable to a particular Applicant or Project.

(c) Indemnification of the Authority: Each Applicant shall agree to indemnify and save harmless the Authority and its officers, directors, employees and agents (hereinafter the

"Indemnities") from and against all liabilities, obligations, claims, damages, penalties, fines, losses, costs and expenses (hereinafter referred to as "Damages"), including without limitation:

(1) All amounts paid in settlement of any litigation commenced or threatened against the Indemnities, if such settlement is affected with the written consent of the Applicant;

(2) All expenses reasonably incurred in the investigation of, preparation for or defense of any litigation, proceeding or investigation of any nature whatsoever, commenced or threatened against the Applicant, the Project or the Indemnities;

(3) Any judgments, penalties, fines, damages, assessments, indemnities or contributions; and

(4) the reasonable fee of the attorneys, auditors, and consultants;

Provided that the Damages arise out of:

(1) Failure by the Applicant, or its officers, employees or agents to comply with the terms of the Financing Documents and any agreements, covenants, obligations, or prohibitions set forth therein;

(2) Any action, suit, claim or demand contesting or affecting the title of the Project;

(3) Any breach of representation or warranty set forth in the Financing Documents or any certificate delivered pursuant thereto, any claim that any representation or warranty of the Applicant contains or contained any untrue or misleading statement of fact or omits or omitted to state any material fact necessary to make the statements made therein not misleading in light of the circumstances under which they were made;

(4) Any action, suit, claim, proceeding or investigation of a judicial, legislative, administrative or regulatory nature arising from or in connection with the construction, acquisition, ownership, operation, occupation or use of the Project; and

(5) Any suit, action, administrative proceeding, enforcement, action or governmental or private action of any kind whatsoever commenced against the Applicant, the Project or the Indemnities which might adversely affect the validity or enforceability of the Bond, the Financing Documents, or the performance by the Applicant or the Indemnities of any of their respective obligations thereunder.

(d) Bond Counsel Opinion Required: Before issuing and delivering the Bond, the Authority shall receive an approving opinion of bond counsel, approved by the Authority, stating, among other things, that the Bonds have been duly authorized, executed, issued and delivered and that the interest thereon is exempt from Federal Income Taxation under

Code Section 103 (or other applicable provision of law) and from income taxation by the Commonwealth of Virginia.

(e) Covenants to Preserve Tax Exempt Status of Bonds: All Financing Documents presented for approval by the Authority shall contain appropriate covenants of the Applicant designed to insure compliance with the requirements of Code Section 103 (or other applicable provision of law) to preserve the tax exempt status of interest on the Bond, including without limitation, "arbitrage" requirements, capital expenditure limitations and reporting and rebate requirements. The Authority shall bear no costs in connection therewith.

SEC. 4-6. REPORTS.

(a) Interim Reports by Applicants: Each Applicant shall file with the Authority a written report describing the status of its proposed financing no later than the last day of the second month after the adoption of an inducement resolution for the Applicant and every three months thereafter until the adoption of any Financing Documents by the Authority. Such written reports shall include the proposed purchase of the Bond, the proposed terms of the Bond, the status of Financing Documents, and the current status of the Project. Each Applicant shall promptly notify the Authority of any significant or material changes to any information furnished by the Applicant to the Authority.

(b) Annual Reports of Applicants: Each Applicant, after the issuance and sale of the Authority's Bond for the benefit of such Applicant shall annually report to the Authority no later than June 30 the status of the Project, which shall include the outstanding and unpaid balance of the Bond issued for the Project, whether any default has occurred under the Financing Documents, and other information relating to the financing of the Project and the benefits to Isle of Wight County.

(c) Reports by Authority Chairman, Directors, etc.: At each regular meeting of the Authority, any member of the Authority may report any action taken on behalf of the Authority since the last regular meeting. No later than September 1 of each year, the Chairman of the Authority shall report in writing to the Authority on the status, as of the end of the Authority's fiscal year, of each active and outstanding inducement resolution of the Authority and the status of the Authority's Bond. The Chairman's report shall be provided to the Board for informational purposes.

SEC. 4-7. STATEMENTS OF POLICY.

(a) Reserve the Right to Deny Applicant: The Authority hereby reserves the right to deny any Applicant after reviewing any Application or the Financing Documents.

(b) Construction, Operation and Effect of Rules. The rules contained in this Article 4 are intended as guidelines to promote and insure the orderly and consistent consideration of Applications, Financing Documents and other matters brought before the Authority. For good cause, the application of these rules may be modified or waived on a case by case

basis upon the consent of the Authority. Any action taken by the Authority not in conformity with these rules shall, nevertheless, be fully effective as if taken in compliance with these rules. It is, however, the policy of the Authority that each Applicant comply fully and completely with these rules, and failure to comply with these rules may constitute grounds for refusal by the Authority to take any action requested by an Applicant.

(c) Approval of Inducement Resolution not to Constitute an Endorsement of the Applicant: The purpose of the Authority, as set forth in the Act, is to promote industry and to develop trade by inducing manufacturing, industrial, governmental and commercial enterprises to locate in or remain in the Commonwealth of Virginia. Pursuant to the Act, the Authority's powers shall be exercised for the benefit of the inhabitants of the Commonwealth of Virginia and Isle of Wight County through the promotion of their safety, health, welfare, convenience or prosperity. Accordingly, the Authority's decision to adopt an inducement resolution or take other action will be based largely upon these factors. Further, the Act prohibits the Authority from operating any enterprise or project. Since the Authority is a conduit for providing tax exempt financing to promote the commerce and industry of the Commonwealth of Virginia and Isle of Wight County, and given the express prohibition against operating enterprises or projects, the Authority believes it is unnecessary to inquire into matters relating to the business judgment of the management of any Applicant not relevant to the foregoing factors. The Authority may, however, examine the business decisions and other aspects of management of the Applicant should it deem such matters relevant to the authorization, issuance and sale of its Bond. In view of the foregoing limitations, the adoption of an inducement resolution or any other action taken by the Authority is not to be used by any Applicant in any manner whatsoever as an endorsement or approval of the Applicant, its policies or its management.

(d) Security for Payment of Bond: The Authority may require that any issue of its Bond be fully and adequately secured by a lien upon or security interest in the Project financed with the proceeds of such Bond. The Authority may require an appraisal of the Project showing that it is valued in an amount sufficient to pay the outstanding principal amount of the Bond issued to finance such Project.

Adopted this 10th day of March, 2015.

Chairman, Economic Development Authority of
Isle of Wight County

Attest:

Secretary, Economic Development Authority of
Isle of Wight County