

BY-LAWS

Adopted January 4, 2017

BUFFALO SEWER AUTHORITY

ARTICLE I

NAME

A board consisting of five (5) members, each of whom is required to be a resident of the City of Buffalo, appointed by the Mayor, subject to confirmation by the Common Council, was created as a body corporate and politic constituting a public benefit corporation of the State of New York by Chapter 349 of the Laws of 1935, and Chapter 870 of the Laws of New York of 1939, now codified as Title 8 of Article 5 of the New York State Public Authorities Law, Sections 1175 to 1195 inclusive), as amended, (hereinafter the “Authority Act”) and is known as BUFFALO SEWER AUTHORITY (hereinafter the “Authority” or the “Authority Board”). The Authority Act includes additional requirements for the operation and conduct of the Authority Board, and is incorporated herein by reference.

ARTICLE II

The fiscal year of the Authority shall begin on the first day of July and end on the thirtieth day of June of each year.

ARTICLE III

SEAL

The seal of the Authority shall be circular in form with the words:

BUFFALO SEWER AUTHORITY

CORPORATE SEAL

1935

and such seal as is impressed on the margin hereof is hereby adopted as the corporate seal of the Authority.

ARTICLE IV

OFFICES

The principal office of the Authority shall be at Room 1038 City Hall, in the City of Buffalo, New York, 14202, and except as otherwise required by resolution of the Authority Board or as the operations of the Authority may require, all the books and records of the Authority shall be kept at such principal office.

ARTICLE V

OFFICERS

The officers of the Authority shall be a Chairman, Vice-Chairman, Secretary, and an Assistant Secretary, all of whom shall be members of the Board and who shall be elected annually by the Authority Board and shall hold office until their successors are chosen and qualify in their stead. Vacancies shall be filled for the unexpired balance of the term. The Authority's Treasurer shall be the Treasurer of the City of Buffalo and the Authority's Comptroller shall be the Comptroller of the City of Buffalo.

ARTICLE VI

DUTIES OF OFFICERS

Section 1. **CHAIRMAN**. The Chairman shall be the executive officer of the Authority. He shall preside at all meetings of the Authority Board and shall sign all official orders of the Authority Board.

Section 2. VICE-CHAIRMAN. The Vice-Chairman shall perform the duties and exercise the powers of the Chairman in the event that the office of Chairman is vacant or in the event that the Chairman is unable to perform such duties by reason of illness, disability, or absence. The Vice Chairman shall perform such other duties as the Authority Board may, from time to time assign to him.

Section 3. SECRETARY. The Secretary shall attend all meetings of the Authority Board and act as Secretary thereof and record all votes and shall cause to be kept a record of the proceedings of the Board of the Authority in a minute book to be kept for such purpose. He shall cause a notice to be given of all meetings of the Authority Board. He shall keep in safe custody the seal and shall have authority to affix such seal to all papers authorized to be executed by the Authority requiring such seal to be affixed. He shall have authority to cause copies to be made of all minutes and other records and documents of the Authority and to give certificates under the seal of the Authority to the effect that such copies are true copies and all persons dealing with the Authority may rely on such certificates. He shall perform such other duties as the Authority Board may, from time to time, assign to him.

Section 4. ASSISTANT SECRETARY. The Assistant Secretary shall also be authorized to affix the seal on all papers authorized to be executed by the Authority requiring such seal to be affixed. In the event that the office of Secretary is vacant or in the event the Secretary is unable to perform his duties by reason of illness, disability or absence, the assistant Secretary shall perform the duties of the Secretary. He shall also perform such other duties as the Authority Board may, from time to time assign to him.

Section 5. ADDITIONAL DUTIES. The officers of the Authority Board shall perform such other duties and functions as may, from time to time, be required or otherwise assigned by the Authority Board.

ARTICLE VII

EMPLOYEES AND PERSONNEL

Section 1. GENERAL MANAGER. The Authority may employ a General Manager who shall be licensed to practice professional engineering by the State of New York and who shall have been engaged in the practice of professional engineering for at least ten years and shall have been in a responsible position in charge of engineering work for at least five years; or alternatively, a General Manager who shall have had at least ten years of full-time experience in an executive or managerial position in the public service or in business administration or an equivalent combination of training, education and experience sufficient to indicate ability to perform the duties of the office.

The General Manager shall serve at the will of the Authority Board and shall, subject to the order and direction of the Board, have general supervision and direction of the business and affairs of the Authority. He shall be responsible to implement all orders, directives and resolutions of the Authority Board into effect and be empowered to delegate powers and duties to other agents or employees of the Authority. He shall perform such other duties as the Authority Board may designate. During his term of office as General Manager, he shall also act as one of the Assistant Secretaries of the Authority.

The General Manager shall be authorized to consider and approve or disapprove in his discretion wage assignments for any purpose.

Section 2. PRINCIPAL SANITARY ENGINEER AND EXECUTIVE SECRETARY. The Principal Sanitary Engineer and the Executive Secretary shall jointly perform the duties and exercise the powers of the General Manager, as more particularly provided herein, in the event

that the office of General Manager is vacant or in the event that the General Manager is unable to perform such duties by reason of illness, disability, or absence.

Such exercise of powers shall be shared jointly; with the general provision that the Principal Sanitary Engineer will assume responsibility for all phases of engineering and related activities and the Executive Secretary will assume responsibility for all phases of administration and related activities.

The Authority Board may, nevertheless, in the event that the office of General Manger is vacant or in the event that the General Manager is unable to perform his duties by reason of illness, disability or absence, appoint an Acting General Manager and, thereupon, the Principal Sanitary Engineer and the Executive Secretary shall cease to act in their respective capacities as above set forth and the Acting General Manager shall assume all of the powers and duties of the General Manager as set forth herein.

Section 3. TECHNICAL CONSULTANTS. The Authority Board may name and appoint, from time to time, special technical experts, consultants, agents and employees as it may require to serve at the will of the Authority Board and for such compensation as the Authority Board may provide. The Authority Board may by resolution fix the respective duties of any such special or technical experts, consultants, agents or other employees and designate under whose supervision or direction they or any of them shall serve. In the absence of any such specific designation, they shall be under the immediate supervision and direction of the General Manager.

Section 4. GENERAL EMPLOYEES. Offices and positions shall be created from time to time by resolution of the Authority Board and the number of employees and respective salaries of each employee shall be fixed by such resolution. Vacancies in any office or position shall be filled by the General Manager, subject to confirmation by the Authority Board. The General

Manager may, at his discretion, create or eliminate any position, subject to confirmation by the Authority Board, at the next regular scheduled meeting.

Section 5. COUNSEL. The Authority Board may retain legal counsel to provide such legal assistance and advice to the Board as it may deem to be necessary or appropriate. The Corporation Counsel of the City of Buffalo shall otherwise serve as general counsel to the Board.

ARTICLE VIII

QUORUM AND MEETINGS

Section 1. QUORUM. At all meetings of the Authority Board, the presence of three members shall constitute a quorum for the transaction of business and the concurrence of three members of the Board shall be necessary to the validity of any action by the Board. A meeting of the Authority Board means the official convening of the Authority Board for the purpose of conducting public business, by the members of the Authority Board being physically present, or by the use of video conferencing for attendance and participation where each person in attendance can see and hear the members of the Authority Board.

Section 2. ANNUAL MEETING. The annual meeting of the Authority Board shall be held on the first day in July at the Authority's principal office in City Hall, or at such other place, date and at such time as may be fixed by the members of the Authority Board for the transaction of business, as may properly be brought before such meeting. In the event such day shall fall on a Saturday, Sunday or legal holiday, the annual meeting shall be held on the next succeeding business day that is not a Saturday, Sunday or legal holiday. At the annual meeting, the Authority Board shall elect its officers for the ensuing year and may transact such other business or deal with other matters as may properly come before the Authority Board.

Section 3. MEETINGS.

(a) Regular meetings of the Authority Board shall take place at such times and places as from time to time may be determined by the Authority Board. The Chairman may, when the Chairman deems it desirable, and shall, upon the written request of two members of the Authority Board, call a special meeting of the Authority Board for the purpose of conducting any business designated in the call or such other business as a majority of the Authority Board shall agree to conduct.

(b) Written or electronic notice of the place, day and hour of every regular and special meeting shall be given to each member by delivering the same to such member personally, or via facsimile, e-mail or other like transmission, at his/her residence or usual place of business, at least one (1) day before the meeting, or shall be sent by regular or overnight delivery to each member, postage prepaid, and addressed to each member at the last known post office address according to the records of the Authority Board, at least three (3) days before the meeting.

(c) Public notice of the time and place of the meeting scheduled at least one week prior thereto shall be given or electronically transmitted to the news media and shall be conspicuously posted in one or more designated public locations at least seventy-two (72) hours before such meeting. Public notice of the time and place of every other meeting shall be given or electronically transmitted, to the extent practicable, to the news media and shall be conspicuously posted in one or more designated public locations at a reasonable time prior thereto. Any regular or special meeting may be adjourned to any other time at the will of a majority of the members of the Authority Board present and voting at such meeting.

(d) If the Authority Board uses videoconferencing to conduct its meetings, and shall provide an opportunity for the public to attend, listen and observe at any site at which an Authority Board member participates, and the public notice for the meeting shall inform the public

that videoconferencing will be used, identify the locations for the meeting, and state that the public has the right to attend the meeting at any of the locations.

Section 4. WAIVER OF NOTICE. Failure to give notice of any meeting of the Authority Board to any member of the Authority Board may be waived in writing by such member. Notice of an adjourned meeting need not be given to any member present at the time of the adjournment.

Section 5. ORDER OF BUSINESS. The order of business at a regular meetings shall be as follows, unless at any meeting, the Authority Board deems otherwise:

- (a) Roll call and determination of quorum.
- (b) Approval of the minutes of previous meeting.
- (c) Reports and committees.
- (d) Bills and communications.
- (e) New business.
- (f) Unfinished business.
- (g) Adjournment.

Section 6. COMMITTEES. Pursuant to New York Public Authorities Law section 2824, the Authority Board shall establish the following standing committees: Audit Committee, Finance Committee and Governance Committee. Each such committee shall have the duties as prescribed by the New York Public Authorities Law. In addition, the Chairman of the Authority Board, who shall be an ex-officio member of each committee, shall appoint a member or members to serve as a special purpose committee for the purpose of exploring and reviewing any issue or matter as prescribed by the Chairman. A quorum of any committee shall consist of a majority of the members of that committee.

ARTICLE IX

DISBURSEMENT OF FUNDS

All vouchers, requisitions, orders, payrolls, contracts, or other writings for the disbursement of funds shall be signed by the Chairman, General Manager, or person or persons designated by the General Manager, and when a countersignature is required, shall be countersigned by the Vice-Chairman or Secretary.

ARTICLE X

AUTHORITY CONTRACTS AND INSTRUMENTS

All contracts and instruments which impose any liability on the Authority shall be signed by the Chairman or by the General Manager when authorized by resolution of the Authority Board. The absence of the Authority seal on an instrument or document shall not invalidate any such Authority instrument or document.

ARTICLE XI

AMENDMENTS

These by-laws may be altered, amended, suspended or repealed by a majority of the members of the Authority Board from time to time without previous notice thereof.

ARTICLE XII

INDEMNIFICATION

Section 1. GENERAL SCOPE OF INDEMNIFICATION. In accordance with section 18 of the New York Public Officers Law and any other applicable law, the Authority Board shall, to the fullest extent permitted by law, provide for the indemnification and defense of any person (and his testator or intestate) made, or threatened to be made, a party to any action or

proceedings, whether civil or criminal in nature, by reason of the fact that such person is or was a member, officer, employee or agent of the Authority Board or served, at the request of the Authority Board, as a member, officer, employee or agent of any subsidiary of the Authority Board, against judgments, penalties, fines, amounts paid in settlement and reasonable expenses, including reasonable attorney's fees, actually and necessarily incurred as a result of such action or proceeding (including any appeal therein); provided such member, officer, employee or agent acted within the scope of his or her duties, in good faith for a purpose which such person reasonably believed to be in the best interest of the Authority and was not in violation of any applicable law, regulation, rule or order at the time the alleged act or omission occurred, and in criminal actions or proceedings, such member, officer, employee or agent had no reasonable cause to believe that any action taken by or conduct of such person was unlawful; and provided further that any defense or indemnification allowed hereunder shall be subject to the determination by the Corporation Counsel of the City of Buffalo that such member, officer, employee or agent has complied with this Article. Except as provided by insurance or otherwise, the Authority shall be liable for the costs incurred for such defense and indemnification.

Section 2. PRESUMPTION. The termination of any such civil or criminal action or proceeding by judgment, settlement, conviction or upon a plea of *nolo contendere*, or its equivalent, shall not in itself create a presumption that any such member, officer, employee or agent did not act in good faith for a purpose which such person reasonably believed to be in the best interests of the Authority or that such person had reasonable cause to believe that any such action or conduct was unlawful.

Section 3. CONDITIONS. The duty to defend, indemnify and save harmless prescribed by this Article shall not arise where the Corporation Counsel of the City of Buffalo determines that the injury or damage complained of or alleged was the result of the intentional wrongdoing or

recklessness of the member, officer, employee or agent. Furthermore, the duty to defend, indemnify and save harmless prescribed by this Article shall be conditioned upon:

- a) Delivery to the Corporation Counsel at the office of the Law Department of the City of Buffalo by the member, officer, employee or agent of the original or copy of any summons, complaint, process, notice, demand or pleading within five (5) days after he is served with such document; and
- b) The full cooperation of the member, officer, employee or agent in the defense of such action or proceeding and in defense of any action or proceeding against the Authority based upon the same act or omission and in the prosecution of any appeal; and
- c) Such delivery shall be deemed a request by the member, officer, employee or agent that the Authority provide for his defense pursuant to this Article. In the event the Corporation Counsel shall assume his defense and thereafter the member, officer, employee or agent fails to or refuses to cooperate in the formation and presentation of his defense, the Corporation Counsel may withdraw his representation ten (10) days after giving written notice to the member, officer, employee or agent of his decision to discontinue such representation.

Section 4. EFFECT OF PRIOR DISCIPLINARY PROCEEDING. In the event that the act or omission upon which the court proceeding against a member, officer, employee or agent is based, was or is also the basis of a disciplinary proceeding against a member, officer, employee or agent, representation by the Corporation counsel and indemnification by the Authority may be withheld: (a) until such disciplinary proceeding has been resolved; and (b) unless the resolution of the disciplinary proceeding exonerated the employee as to such act or omission.

Section 5. APPLICABILITY. The provisions of this Article shall apply to all actions and proceedings pending upon the effective date hereof or thereafter instituted.

Section 6. INSURANCE. The Authority Board may maintain insurance, at the Authority's expense, to protect itself, any member, officer, employee or agent of the Authority Board against any expense, liability or loss or other amount provided for in section 1 of this Article, whether or not the Authority Board would have the power to indemnify and defend such person against such expense, liability or loss or other amount provided for in section 1 of this Article, under this Article or applicable law.

ARTICLE XIII

CONSTRUCTION

Words that indicate a singular number shall include a plural in each case and vice versa unless the context of the usage of such term clearly indicates otherwise. Words that reference the masculine, feminine or neutral genders shall include all genders, as the case may be.