

**AMENDED AND RESTATED BYLAWS OF  
THE INDUSTRIAL DEVELOPMENT AUTHORITY  
OF THE CITY OF TUCSON, ARIZONA**

(Effective February 22, 2023)

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Pursuant to the provisions of **Article IX**, the Bylaws of The Industrial Development Authority of the City of Tucson, Arizona (the "**Corporation**") are amended and restated in their entirety as follows:

**ARTICLE I - THE CORPORATION**

**Section 1.01. Purposes and Powers.** The Corporation is a nonprofit corporation designated as a political subdivision of the State of Arizona (the "**State**"), incorporated with the approval of the City of Tucson, Arizona (the "**City**"), in accordance with the provisions of the Constitution and laws of the State, including the **Industrial Development Financing Act, Title 35, Chapter 5 of the Arizona Revised Statutes, as amended, Sections 35-701 et seq.** (the "**IDA Act**"). The Corporation shall have the purposes as are now or may hereafter be set forth in its Articles of Incorporation and shall have the powers granted to industrial development authorities by law, including, without limitation, the powers provided in the IDA Act, as such provisions may be amended from time to time.

**Section 1.02. Mission.** The Corporation's mission is to enable strategic economic and community development by providing financing and access to capital for projects and programs that benefit a thriving City. This section reaffirms the mission and values of the Corporation as stated in its mission statement, as adopted from time to time, which by reference becomes a part of these Bylaws.

**ARTICLE II - RIGHTS AND LIABILITIES**

**Section 2.01. Interest of Directors.** No director of the Corporation shall have any right, title or interest in or to any property or assets of the Corporation either prior to or at the time of any liquidation or dissolution of the Corporation.

**Section 2.02. Liability for Debts.** The directors, officers, agents and employees of the Corporation shall not be individually liable or responsible for any debts or liabilities of the Corporation, except that liability to the Corporation for money damages shall exist for any Prohibited Acts (as defined below) taken by the individual.

**Section 2.03. Indemnification and Limitations.** To the greatest extent permitted by law, the Corporation shall indemnify any and all of its current and former directors, officers, agents and employees for personal liability arising or resulting from such person acting within the scope of his or her service as a director, officer, agent or

employee of the Corporation, including his or her own active or passive negligence, provided that such person reasonably believed his or her conduct to be in, or not opposed to, the best interests of the Corporation; further provided, however, that no indemnification shall apply if the board of directors reasonably determines that an individual's potential liability arises out of any Prohibited Acts taken by the individual. Indemnification shall not be deemed exclusive of any other rights to which the indemnified may be entitled under the Articles of Incorporation, these Bylaws, any agreement, a vote of the board of directors, insurance purchased by the Corporation, or otherwise.

**Section 2.04. Prohibited Acts.** Personal liability of any the Corporation's directors, officers, agents or employees shall not be limited for any of the following (individually and collectively referred to herein as the "**Prohibited Acts**");

- (i) The amount of a financial benefit received by the person to which the person is not entitled.
- (ii) An intentional infliction of harm on the Corporation, its employees or officers or on members of the Corporation's board of directors.
- (iii) Liability for unlawful distributions in violation of Arizona laws governing nonprofit corporations.
- (iv) An intentional violation of criminal law.

### **ARTICLE III – BOARD OF DIRECTORS**

**Section 3.01. General Powers.** The business and affairs of the Corporation shall be managed by a board of not less than 3 nor more than 7 directors which shall exercise all of the powers of the Corporation.

**Section 3.02. Election and Tenure of Office.** The members of the board of directors shall be appointed and elected by the Mayor and City Council. Directors shall serve 6-year terms unless otherwise set forth by the Mayor and City Council in order to create or maintain overlapping terms. A director is eligible for re-election for two complete consecutive 6-year terms and may not be reappointed until after a break in service of at least one year. Each director shall hold office until his or her qualified successor has been elected by the Mayor and City Council.

**Section 3.03. Vacancies.** A vacancy in the board of directors occurring by reason of death, removal, resignation or otherwise shall be filled by the Mayor and City Council.

**Section 3.04. Compensation.** Neither directors, officers, nor relatives of a director or an officer shall receive any salary or other compensation for their services in

violation of **Arizona Revised Statutes Section 38- 481**. For purposes of these Bylaws, the term "relative" shall mean any director's or officer's spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister of a child of a spouse.

**Section 3.05. Reimbursement.** Directors and officers may be reimbursed for all expenses reasonably incurred on behalf of the Corporation.

**Section 3.06. Resignations and Removal.** Any director may resign at any time by giving notice of his or her resignation to the President or the Secretary. The Mayor and City Council may remove a director at any time, with or without cause.

**Section 3.07. Conflicts of Interest.**

(a) Any director, officer or employee having an interest in a contract or other transaction presented to the board of directors for authorization, approval or ratification shall give prompt, full and frank disclosure of his or her interest. If a conflict of interest is determined to exist by a majority vote of the uninterested directors, such person shall not vote on, nor use his or her personal influence on, nor participate (other than to present factual information or to respond to questions) in discussions or deliberations with respect to, such contract or transaction. A person with a conflict of interest shall not be counted in determining the existence of a quorum for purposes of discussion of and voting on that contract or transaction.

(b) The directors, officers and employees of the Corporation shall from time to time report to the board of directors the existence of any existing or potential conflict of interest.

(c) The directors, officers and relatives of a director or an officer shall conduct their affairs in connection with the Corporation in compliance with the provisions of **Arizona Revised Statutes Title 38, Chapter 3, Article 8**, as amended from time to time (the "**Conflict Laws**").

**ARTICLE IV - MEETINGS OF DIRECTORS**

**Section 4.01. Meetings.** The President may from time to time establish a fixed time, date and place for regularly scheduled monthly meetings of the board of directors, which by reference becomes a part of these Bylaws. Currently the board of directors meetings are scheduled to be held on the third Thursday of each month at 3:00 pm (Arizona time), or at such other date and time as is specified in the notice of meeting.

**Section 4.02. Place of Meetings.** All meetings of the board of directors shall be held at such place within the City as may be fixed from time to time by the President or Secretary, as stated in the notice of the meeting, including but not limited to virtual (remote) meetings on any technological platform hosted by the Corporation. The board

of directors may hold meetings for educational or planning purposes outside the City, within the State of Arizona, at a location as is specified in the notice of the meeting.

**Section 4.03. Annual Meeting.** The annual meeting of the board of directors shall be held on the third Thursday in [June] of each year, or on another date designated by the President or the Secretary as is specified in the notice of the meeting, for the purpose of appointing officers, passing upon reports for the previous fiscal year and transacting such other business as may come before the board of directors. Failure to hold the annual meeting at the designated time shall not constitute a forfeiture or dissolution of the Corporation and in the event of such failure, the annual meeting shall be held within a reasonable time thereafter.

**Section 4.04. Special Meetings.** Special meetings of the board of directors may be called by the President, Secretary or at least two directors, at such date and time and place (in accordance with **Section 4.02**) as is specified in the notice of special meeting.. Notice of the meeting shall be given as provided in **Sections 4.05 and 4.06**.

**Section 4.05. Notice of Meetings; Open Meeting Laws.**

(a) Notice of the date, time and place of each regular or annual meeting shall be delivered or given to each director personally or by electronic transmission or mail.

(b) Notice of the date, time, place and purpose of any special meeting of the board of directors shall be delivered or given to each director personally or by electronic transmission or mail.

(c) If notice of a meeting is mailed, such notice shall be deemed to be delivered the second business day following the day it was deposited in the United States mail, postage prepaid, addressed to the director at his or her address as it appears on the records of the Corporation.

(d) Notwithstanding anything herein to the contrary, the Corporation shall at all times comply with the Arizona Open Meeting Laws, **Arizona Revised Statutes Section 38-431 et seq.**, as amended from time to time (the "**Open Meeting Laws**").

(e) The Corporation shall give notice of the time and place of annual, regular and special meetings of the board of directors to the public, in compliance with the Open Meetings Laws. Notice of any meeting shall also be given to the designated representative of the City.

**Section 4.06. Public Records Laws.** Notwithstanding anything herein to the contrary, the Corporation shall at all times comply with Arizona's public records laws, **Arizona Revised Statutes Section 39-101 et seq.**, as amended from time to time.

**Section 4.07. Quorum.** A majority of the members of the board of directors

shall constitute a quorum. If less than a majority of the directors is present at the meeting, a majority of the directors present may adjourn the meeting from time to time. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors as to all matters.

**Section 4.08. Attendance at Meetings.** Directors are expected to regularly attend meetings. Directors' attendance may be in person, by telephone or by other forms of technological communication. Any member of the board of directors who misses four consecutive regular meetings for any reason or who fails to attend for any reason at least 40 percent of the regular meetings called in a calendar year is automatically and immediately removed as a member of the board of directors.

## **ARTICLE V - OFFICERS**

**Section 5.01. Number and Qualifications.** The elected officers of the Corporation shall be a President, a Vice-President, a Secretary, a Treasurer, and such other officers as may be determined by the board of directors from time to time, and each of whom shall perform such duties as may be designated by the board of directors. The appointed officers of the Corporation shall be the Chief Executive Officer. Prior to taking office, each officer shall execute a loyalty oath in accordance with the requirements of **Arizona Revised Statute Section 38 – 231**.

**Section 5.02. Election and Term of Office.** The officers shall be elected annually by the board of directors at the annual meeting of the board of directors. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Each elected officer shall serve one-year terms and hold office until his or her successor shall have been duly elected. A vacancy in any office shall be filled by the board of directors for the unexpired portion of the term.

**Section 5.03. President.** The President:

- (a) shall be the principal executive officer of the Corporation, and unless otherwise determined by the members of the board of directors, shall preside at all meetings of the board of directors;
- (b) shall ensure that the board of directors acts consistently with its own governance processes and rules, and with these Bylaws;
- (c) may sign any deeds, mortgages, deeds of trust, notes, bonds, contracts, or other instruments authorized by the board of directors to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the board of directors or by these Bylaws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed; and



- (d) shall in general perform all duties incident to the office of the President and such other duties as may be prescribed by the board of directors from time to time.

**Section 5.04. Vice-President.** In the absence of the President or in the event of his or her inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all of the restrictions upon the President. In addition, the Vice-President shall:

- (a) support the governance practices of the board of directors;
- (b) conduct an annual review of the Articles of Incorporation and Bylaws and recommend amendments as needed to the board of directors;
- (c) review board of directors' governance practices and recommend changes as needed to the board of directors;
- (d) periodically surveying directors regarding the Corporation's processes and operations and suggest improvements to the board of directors and staff;
- (e) assist with director education and training, including on-boarding of new directors; and
- (f) perform such other duties as from time to time may be prescribed by the board of directors.

**Section 5.05. Secretary.** The Secretary shall be responsible for:

- (a) keeping or causing others to keep the minutes of all of the meetings of the board of directors;
- (b) overseeing that all notices are duly given in accordance with these Bylaws, Open Meeting Laws or as otherwise required by law;
- (c) review of directors' meeting attendance for compliance with these Bylaws;
- (d) being the custodian of the corporate records, books and documents of the Corporation, which duty he or she may delegate to agents of the Corporation;
- (e) executing documents on behalf of the Corporation in accordance with the provisions of these Bylaws;
- (f) keeping a register of the names and addresses of all directors and copies

of each director's and employee's loyalty oath;

- (g) maintaining a complete copy of the Articles of Incorporation and Bylaws of the Corporation that contains all amendments thereto; and
- (h) in general, to perform all duties incident to the office of Secretary, and such other duties as from time to time may be prescribed by the board of directors.

**Section 5.06. Treasurer.** The Treasurer shall:

- (a) provide fiscal supervision and oversight of the Corporation's funds and securities;
- (b) be charged with the preparation and filing, or causing the preparation and filing, of the Corporation's financial statements and tax returns as may be required by law;
- (c) ensure that financial reports are presented and explained to the board of directors;
- (d) review the receipt of and the issuance of receipts for all moneys due and payable to the Corporation and for the deposit of all such moneys in the name of the Corporation in such depositories as shall be selected by the board of directors; and
- (e) in general, perform all duties incident to the office of Treasurer, and such other duties as from time to time may be prescribed by the board of directors.

**Section 5.07. Employment.** In performance of the duties set forth in this Article V, the board of directors of the Corporation may employ such persons as it deems necessary.

**Section 5.08. Appointed Officers.** The Chief Executive Officer ("CEO") of this Corporation shall be an appointed officer of the Corporation. The CEO will be subject to the supervisory powers of, and report directly to, the board of directors. The CEO shall, subject to the control of the board of directors, have general oversight responsibility of the business operations and programs of the Corporation. The CEO shall be authorized to, on behalf of the Corporation, sign all contracts, agreements, and all other internal and external instruments requiring execution on behalf of the Corporation, subject to policies established by the board of directors. Subject to the CEO's rights under his or her employment contract, the CEO may be removed either with or without cause by an affirmative vote of the majority of the board of directors at any regular or special meeting of the board of directors.

**Section 5.09 Indemnification.** To the greatest extent permitted by law, the Corporation shall indemnify and hold each of its officers harmless for, from, and against any and all liability arising directly or indirectly out of such person's service as an officer of the Corporation including his or her own active or passive negligence; provided, however, no indemnification shall apply if the board of directors reasonably determines that an individual officer's potential liability arises out of any of the Prohibited Acts.

## **ARTICLE VI - NONPROFIT CORPORATION**

The Corporation shall at all times be operated on a nonprofit basis, and no part of the income or assets of the Corporation shall be distributed to, or inure to the benefit of, any director or officer.

## **ARTICLE VII - FINANCIAL TRANSACTIONS**

**Section 7.01. Contracts.** Except as otherwise provided in these Bylaws, the board of directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name and on behalf of the Corporation and such authority may be general or confined to specific instances.

**Section 7.02. Checks, Drafts, Etc.** All checks, drafts or other orders for the payment of moneys, and all notes, bonds or other evidence of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, agent or agents, employee or employees of the Corporation and in such manner as shall from time to time be determined by resolution of the board of directors.

**Section 7.03. Deposits.** All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such depositories as the board of directors may select.

**Section 7.04. Fiscal Year.** The fiscal year of the Corporation shall begin on July 1<sup>st</sup> of each and every year and shall end on June 30<sup>th</sup> of the following year.

## **ARTICLE VIII – COMMITTEES**

**Section 8.01. Principles and Structure.** Committees will be used to help the board of directors achieve its work and fulfill its mission. As matters arise from time to time, committees may be created and dissolved by an act of the board of directors. The board of directors may delegate authority and responsibility to committees, however, committees may not act for the board of directors except when formally given such authority and responsibility. The board of directors shall remain accountable for the work of committees.

**Section 8.02. Committee Meetings.** The committee meetings shall be called



by the Committee Chair, at such date and time and place (in accordance with **Section 4.02**) as is specified in the notice of the committee meeting.. Notice of the meeting shall be given as provided in **Sections 4.05 and 4.06**. A majority of the committee members shall constitute a quorum. While other members of the board of directors may attend, they shall not count for quorum purposes nor are they entitled to vote. Each committee shall keep minutes of its proceedings as provided in **Sections 4.05 and 4.06** and report to the board of directors.

**Section 8.03. Resignation, Removal and Vacancies.** Any member of a committee may resign at any time by giving written notice to the Committee Chair or the Secretary of the Corporation, with such resignation taking effect on the date of receipt or any later date specified in the notification. The board of directors may remove any member of a committee, with or without cause, at any time by an affirmative vote of a majority of the board of directors. A vacancy on a committee may be filled by the President at any time.

## **ARTICLE IX - MISCELLANEOUS**

**Section 9.01. Waiver of Notice.** Any director may waive in writing any notice of a meeting required to be given by these Bylaws. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting by such director, except in case a director shall attend a meeting for the express purpose of objecting to the notice.

**Section 9.02. Rules and Regulations.** The board of directors shall have the power to make and adopt such rules and regulations not inconsistent with law, the Articles of Incorporation or these Bylaws, as it may deem desirable for the management of the business and affairs of the Corporation.

**Section 9.03. Accounting System and Reports.** The board of directors shall cause to be established and maintained, in accordance with generally accepted principles of accounting, an appropriate accounting system.

## **ARTICLE X - AMENDMENTS**

These Bylaws may be altered, amended or repealed by the affirmative vote of a majority of the directors then in office, at any regular or special meeting, so long as the amended Bylaws are not inconsistent with the Corporation's Articles of Incorporation; provided that **Section 2.01, Section 3.04 and Article VI of these Bylaws** may not be altered, amended or repealed.

Notwithstanding the foregoing, no amendment of these Bylaws shall be effective until the amendment shall be approved by the Mayor and City Council or of its municipal successor.

These Amended and Restated Bylaws were duly adopted by a Resolution of the board of directors of the Corporation on July 21, 2022 and by Resolution No. \_\_\_\_\_ of the Mayor and City Council adopted on \_\_\_\_\_, 2022 at the request of the Corporation.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

**IN WITNESS WHEREOF**, these Bylaws have been adopted and executed and are effective as of the date first written above.

By:   
Judy Clinco, President

By:   
Melissa (Mimi) Noshay-Petro, Secretary