

# DEVELOPMENT AUTHORITY OF FULTON COUNTY

## AMENDED AND RESTATED BY-LAWS

Dated November 13, 2020

### ARTICLE 1-NAME AND OFFICES

1.1 The Development Authority of Fulton County (the "Authority") has been created in accordance with Georgia Law (*Ga. L. 1969, page 137, O.C.G.A. Chapter 36-62-1 et seq.*) (the "Act") and activated by a resolution of the Fulton County Board of Commissioners on May 16, 1973, as amended (the "Activating Resolution"). The Authority shall maintain offices in the Fulton County Administration Building or at such other location within Fulton County as may be determined by the Authority.

### ARTICLE 2-MISSION

2.1 The mission of the Authority is to stimulate quality economic development in Fulton County by expanding and diversifying the tax base, creating jobs, retaining existing businesses and sustaining quality of life for residents throughout Fulton County (the "Mission").

### ARTICLE 3-DIRECTORS

3.1 The directors of the Authority (each a "Director" or "Member" and collectively, the "Board of Directors" or the "Board") are appointed by the Board of Commissioners of Fulton County for terms of four (4) years unless as otherwise set forth herein and pursuant to lawful Board action. Terms shall commence on June 1 and expire on May 31 four (4) years thereafter, except as set forth herein and that a Member shall serve until his or her successor is appointed and sworn by oath as required by law. As required by the Act and the Activating Resolution, each such Director of the Authority (a) shall be a taxpayer residing in Fulton County and (b) shall not be an officer or employee of Fulton County, the Fulton County Board of Education or the Atlanta Board of Education. A majority of the Directors shall have full authority to conduct any and all business, which the Authority is authorized by law to conduct.

3.2 Regular meetings of the Board of Directors shall be held at the Fulton County Government Center Building on the fourth Tuesday of each month at 2:00 P.M. Such meetings may be cancelled or postponed by the Chairman; provided that at least 24 hours' notice of such action is given to all Members of the Board of Directors. Special meetings of the Board of Directors may be called by the Chairman, or by a majority of the Directors. Each Director shall receive at least 24 hours' notice of any special meeting of the Board of Directors.



3.3 Whenever these By-Laws require any notice to be given to the Board of Directors, such notice may be given by mailing the same in writing to the last known address of the Director by the close of business on the last business day preceding the date when notice is required to be given to the Directors, by email, or by a telephone call to the business or home telephone of the Director.

3.4 Notice of any special or postponed meeting of the Board of Directors may be waived by instrument in writing. Attendance in person or participation in any manner at any such meeting shall constitute a waiver of notice thereof and the vote of any Director approving the Minutes of any meeting of the Board of Directors shall be effective to the same extent as if such Director had been present at such meeting.

3.5 A majority of the Board of Directors shall constitute a quorum but no action shall be taken by the Board without the affirmative vote of a majority of the full membership of the Board.

3.6 All meetings of the Board of Directors shall be conducted in accordance with Roberts Rules of Order, except where expressly provided to the contrary by these By-Laws or by other resolution of the Board of Directors.

3.7 Any meeting of the Authority may be held by telephone or other similar means as authorized by O.C.G.A. § 50-1-5 or O.C.G.A. § 50-14-1, *et seq.*

3.8 Each Director shall act in the best interest of the Authority and in furtherance of the Mission of the Authority.

#### ARTICLE 4-OFFICERS

4.1 The officers of the Authority shall consist of a Chairman, a Vice Chairman, a Secretary and a Treasurer, (each an "Officer" and collectively, the "Officers"), all of whom shall be Members of the Authority. In accordance with Section 4.2 hereof, each Officer shall be elected by a majority vote of the Board.

4.2 Beginning June 2022 and every two years thereafter, Officer elections shall take place. Such Officers shall serve for a term of two (2) years commencing with the date of election, or such other date that is approved by the Board of Directors, and thereafter until their successors are elected or as otherwise permitted by lawful action of the Board or the Authority (each, an "Officer Term"). Notwithstanding anything to the contrary contained herein, in the event that there shall be a failure to elect Officers at the applicable June meeting of the Board of Directors, the Board may, but shall not be obligated to, elect Officers at any subsequent meeting of the Board.

4.3 The Chairman of the Board of Directors shall have the authority to preside at all meetings of the Board of Directors and shall have the authority to postpone regular meetings of the Board of Directors and to call special meetings of the Board of Directors, as hereinbefore provided. The Chairman shall have the authority to execute any and all documents on behalf of the Authority, including contracts and any other such documents. Except as expressly stated in



Article 5 herein and in furtherance of the Mission, the Chairman shall have authority to create committees of the Authority and appoint the chairperson and Members of such committees. The Chairman shall also perform such other duties as may be delegated to the Chairman by the Board of Directors.

4.4 The Vice Chairman of the Board of Directors shall preside at meetings in the absence of the Chairman and shall be authorized to perform all functions of the Chairman in his absence. In the event that the Chairman shall die or resign from the Authority, the Vice Chairman shall become acting Chairman until a successor is chosen as the Chairman, in accordance with Section 4.8 below.

4.5 The Secretary shall be charged with keeping custody of Minutes of the meetings of the Directors and the Seal of the Authority and shall perform such other duties and shall have such other powers as may from time to time be delegated to him or her by the Board of Directors.

4.6 The Treasurer shall be charged with maintaining the financial records of the Authority, including its checking account and any special accounts which may be established from time to time and shall cause an annual audit of all such accounts to be presented to the Authority; provided, however, the Chairman, Vice Chairman, the Executive Director and/or CEO and the Treasurer shall be authorized to sign checks on behalf of the Authority and all checks issued on behalf of the Authority shall be signed by at least two (2) of such persons who are so designated.

4.7 The Directors are authorized to appoint assistants to the Officers who shall perform such duties as may be delegated to them

4.8 In the event the positions of Vice Chairman, Secretary, or Treasurer become vacant before the end of the applicable Officer Term, the Chairman shall immediately appoint a Director to replace such Officer until the next regular meeting of the Board of Directors at which time a successor shall be chosen by the Board for the unexpired term. If the Chairman position is vacated before the end of the applicable Officer Term, the Vice Chairman shall become acting Chairman until the next regular meeting of the Board of Directors at which time a successor shall be chosen as the Chairman to fill the unexpired Chairman's term.

#### ARTICLE 5-EXECUTIVE COMMITTEE

5.1 There shall be an Executive Committee of the Board of Directors composed of the Chairman, Vice Chairman, Secretary, Treasurer, and one (1) other Director who shall be appointed by the Chairman and such Director shall serve on the Executive Committee during the calendar year for which he or she is appointed or until his or her successor is appointed by the Chairman. In the event that a Chairman Emeritus has been named, but is not a Director, the Chairman Emeritus shall serve as a non-voting advisor to the Executive Committee. Three (3) Members of the Executive Committee shall constitute a quorum for the transaction of business at meetings of the Committee and the act of the majority of the Members present at any meeting at which there is a quorum shall constitute the action of the Committee.



5.2 The Executive Committee shall have the authority to carry out any item of business approved in the Authority's approved budget. The Executive Committee shall work closely with the Chairman and Executive Director and/or CEO by providing guidance in the Board's overall decision making and maintaining oversight of the Authority. The Executive Committee is authorized to approve policy(ies) to be followed by the Authority, provided that a majority of the Members of the Executive Committee approve such policy(ies) and the Board of Directors shall be notified of any such policy(ies) approved by the Executive Committee. The Executive Committee is authorized to exercise all the authority of the Board of Directors to the extent that such authority is not specifically delegated by the Board of Directors to another committee or committees. Any additional business undertaken by the Executive Committee must be authorized by a majority vote of the full Board.

5.3 The Chairman shall be authorized to call meetings of the Executive Committee at any time. Notice of the meetings of the Executive Committee shall be given in the same manner as provided for notices of special meetings of the Board of Directors in accordance with Sections 3.2 and 3.3 hereof. Where exigent circumstances require, meetings may be called with less than 24 hours' notice.

#### ARTICLE 6-SEAL

6.1 The Seal of the Authority shall be in such form as the Board of Directors may from time to time determine. In the event it is inconvenient or difficult to use such a seal at any time, the typed name of the Authority followed by the word "SEAL", enclosed in parentheses or scroll, shall be deemed the Seal of the Authority. The Seal shall be in the custody of the Secretary or his or her assistant, and affixed by him or her to official documents of the Authority which have been executed by order of the Board of Directors.

#### ARTICLE 7-EXECUTIVE DIRECTOR AND/OR CHIEF EXECUTIVE OFFICER

7.1 The Authority may have an Executive Director and/or Chief Executive Officer ("CEO") who may or may not be a Member of the Authority. The Executive Director and/or CEO shall be appointed by the Board of Directors for such term and for such compensation as may be determined by the Board of Directors.

7.2 The Executive Director and/or CEO shall, consistent with the direction of the Board, oversee the operations of the Authority's office, shall have direct day-to-day responsibility for the administrative, financial and operational affairs of the Authority, including and without limitation, business development responsibilities, supervision of administrative staff, the marketing and other business activities of the Authority and such other duties as the Board of Directors may assign from time to time. The Executive Director and/or CEO shall serve as the Authority's liaison to other similar authorities. The Executive Director and/or CEO shall report directly to the Board of Directors.



## ARTICLE 8-BUDGET

8.1 The Board of Directors shall adopt a line-item budget for the Authority on or before January 31 of each year. In the event that there shall be a failure to adopt a line-item budget before January 31 of any given year, such adoption may occur at any subsequent meeting of the Board.

8.2 Upon the adoption of a budget for the Authority for any given year, there shall be no expenditure in excess of any line-item contained in any such budget without the prior approval of the Executive Committee.

## ARTICLE 9- INDEMNIFICATION

9.1 The Authority shall, to the extent permitted by applicable law, indemnify and save the Directors and Officers harmless against and from claims by or on behalf of any person, firm or corporation or governmental entity arising, directly or indirectly, from any services as a Director or Officer or any lawful work or action done on behalf of the Authority during a Director or Officer's board membership term. Nothing contained herein shall require the Authority to indemnify the Directors and Officers for any claim or liability resulting from the Directors and Officers own willful misconduct or negligence, or from any claim or liability between and among any Director and/or Officer, on the one hand, and the Authority, on the other hand. The Directors and Officers shall have the right to employ separate counsel in any such action and participate in the investigation and defense thereof, but the fees and expenses of such counsel shall be paid by the Directors and Officers individually unless the employment of such counsel has been authorized by the Authority.

## ARTICLE 10-CONFLICTS OF INTEREST

10.1 Pursuant to O.C.G.A. § 36-62-5, the Authority may purchase from, sell to, borrow from, loan to, contract with, or otherwise deal with any Director or any organization or person with which any Director of the Authority is in any way interested or involved, provided that (1) any interest or involvement by such Director is disclosed in advance to the Directors of the Authority and is recorded in the minutes of the Authority; (2) any interest or involvement by such Director with a value in excess of \$200 per calendar quarter is published by the Authority one time in the legal organ in which notices of sheriffs' sales are published in each county affected by such interest, at least 30 days in advance of consummating or closing such transaction; (3) no Director having a substantial interest or involvement may be present at that portion of an Authority meeting during which discussion of any matter is conducted involving any such organization or person; and (4) no Director having a substantial interest or involvement may participate in any decision of the Authority relating to any matter involving such organization or person. A "substantial interest or involvement" means any interest or involvement which reasonably may be expected to result in a direct financial benefit to such Director as determined by the Authority, which determination shall be final and not subject to review.



## ARTICLE 11-SUSPENSION AND/OR REMOVAL FOR CAUSE

11.1 Notwithstanding the provisions of Article 3 herein and unless as otherwise precluded by applicable law, any Director may be suspended for one or more meetings and/or removed from the Board by a majority vote of the disinterested Members of the Board determining, in the good faith determination of the Board, that the Director has engaged in "Cause." For the purpose of these By-Laws, "Cause" shall include any of the following: (a) the Director engaging in any conflicted transaction without disclosing the transaction to the Board in accordance with Article 10 above and O.C.G.A. § 36-62-5; (b) the Director engaging in conduct in violation of applicable law governing the Authority's business, including, without limitation, any provision of Georgia law governing development authorities (including, without limitation, the conflict of interest prohibitions set forth in O.C.G.A. §§ 36-62-5 and 45-10-3; (c) the Director engaging in conduct contrary to the Authority's best interests, including, without limitation, the Mission of the Authority and/or the lawful actions of the Authority authorized by Board action; (d) the Director violating any policies and procedures adopted by the Executive Committee; (e) the Director committing any felony or any misdemeanor involving dishonesty or moral turpitude; (f) the Director being unable to serve on the Board, either with or without reasonable accommodation, due to the Director's disability for a period of at least 180 days within any 365 day period; and/or (g) the Director's failure to exercise the Director's fiduciary duties owed to the Authority. Before any vote is taken to potentially suspend and/or remove a Director for Cause, the Board and/or any designee of the Board shall provide the involved Director with at least thirty (30) days of advance notice setting forth the grounds for Cause in reasonable detail so that the Director respond to any Cause allegations at the noticed meeting held to vote on the Director's potential suspension or removal from the Board, as applicable, understanding that only disinterested Directors may vote on such Director's potential suspension or removal. For the avoidance of doubt, the decision of whether to suspend or remove any Director for Cause shall be left to the sole discretion of the Board.

11.2 Upon the removal of any Director pursuant to Article 11.1, the vacant director seat shall be filled as soon as is practicable by the Board of Commissioners of Fulton County.

11.3 Any Officer may be removed from his or her Officer position with or without Cause by the Board, at the discretion of the Board, upon the affirmative vote of two-thirds (2/3rds) of the Members of the Board. In the event the Officer is removed from his or her Officer position pursuant to this Section 11.3, the Officer will continue to serve as a Director unless such Officer is also removed for Cause, as outlined in Sections 11.1 and 11.2 hereof. Nothing in this Section 11.3 shall be construed as permitting the removal of a Director without Cause.

## ARTICLE 12 - AMENDMENT AND OTHER GENERAL PROVISIONS

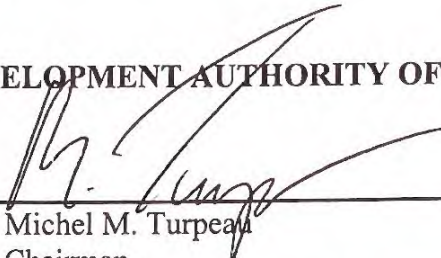
12.1 These By-Laws may be amended at any regular or special meeting of the Directors of the Authority by the affirmative vote of a majority of the Directors provided, however, that

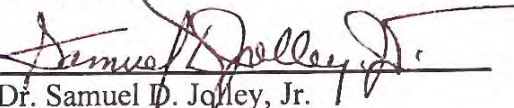
written notice of any proposed Amendment to the By-Laws must be given to each Member of the Board of Directors at least 24 hours prior to the meeting where the action is taken.

12.2 Nothing in these By-Laws shall be construed to the contrary of any provision of O.C.G.A. § 36-62-1, *et seq.*, as amended from time to time, and in the event of a conflict, the latter shall control.

THESE BY-LAWS WERE AMENDED AND RESTATED BY THE AFFIRMATIVE VOTE OF A MAJORITY OF THE DIRECTORS THIS 13<sup>th</sup> DAY OF NOVEMBER, 2020.

**DEVELOPMENT AUTHORITY OF FULTON COUNTY**

By:   
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Michel M. Turpeau  
Chairman

By:   
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Dr. Samuel D. Jolley, Jr.  
Secretary