

**TUXEDO FARMS LOCAL  
DEVELOPMENT CORPORATION**

**2019 Annual Report**

## **Operations and Accomplishments:**

### **Introduction:**

The Tuxedo Farms Local Development Corporation (the "Corporation") is a charitable corporation as defined in Section 201 of the New York Not-for-Profit Corporation Law. The Corporation serves as a supporting organization for, but operates separate and apart from the Town of Tuxedo, New York (the "Town"). The Corporation was formed and operates exclusively for charitable purposes. Such purposes include to relieve and reduce unemployment, to promote and provide for additional and maximum employment, to improve and maintain job opportunities, and to lessen the burden of government and act in the public interest.

In furtherance of the Corporation's charitable purposes, the Corporation's powers include, but are not limited to: fostering the creation, retention and expansion of jobs and economic opportunities; executing and issuing negotiable bonds; and entering into covenants and agreements and otherwise carry out its corporate purposes.

This document is being presented as the Annual Operations and Accomplishments Report for the Tuxedo Farms Local Development Corporation for the fiscal year ended December 31, 2019, in compliance with the New York State Public Authorities Accountability Act and the 2009 Public Authorities Reform Act ("PARA"). The goal of this report is to provide a written assessment and summary review of the Corporation's operations and accomplishments during fiscal year ended December 31, 2019.

### **2019 Operations and Accomplishments**

In 2017, the Corporation caused the completion of the construction of the wastewater treatment plant and related piping and pump stations as authorized by the 2015 issuance of its \$30,000,000 Tuxedo Farms Local Development Corporation Revenue Bonds (Tuxedo Farms Project), Series 2015 (the "Bonds").

There was one (1) board meeting held on March 25, 2019. The meeting was conducted in accordance with and properly noticed as required by the Open Meetings Law.

At the meeting, the 2018 Annual Audit and the 2018 Annual Report were reviewed and approved by the board.

Officers were elected as follows:

Michael Rost, President/CEO  
Stephen Arber, Treasurer/CFO  
Maureen Coen, Secretary  
Michael Rost, FOIL Officer and Contracting Officer

The following Committee members were approved:

Audit Committee – Stephen Arber, Chair, Michael Rost and Maureen Coen  
Finance Committee – Michael Rost, Chair, Stephen Arber and Maureen Coen  
Governance Committee – Maureen Coen, Chair, Michael Rost and Maureen Coen

The above actions were taken in furtherance of the work of the Corporation, whose mission it is foster the creation, retention and expansion of jobs and economic opportunities in the Town, the State of New York and local economies.

## **Financial Reports:**

### **Audited Financials**

Please see attached 2019 audited financial statements dated March 21, 2020 attached hereto as Exhibit A.

### **Operating and Financial Risk**

Please see attached 2019 audited financial statements dated March 21, 2020 attached hereto as Exhibit A.

### **Bond Ratings**

No ratings at this time.

### **Long-Term Liabilities**

Please see Note 6 – “Long-Term Obligations” (pages 16 – 17) on the attached 2019 audited financial statements dated March 21, 2020 attached hereto as Exhibit A.

## **Mission Statement and Measurement Report:**

Please see the separate report. This report has also been uploaded into the Public Authorities Reporting Information System as required and will be made available on the agency website.

### **Introduction:**

This document is being presented as the Mission Statement Measurement Report for the Corporation for the fiscal year ended December 31, 2019.

Chapter 506 of the Laws of 2009 added a new section in Public Authorities Law ("PAL") requiring state and local authorities to develop and adopt a mission statement. The law also required public authorities to develop performance measures to assist the Authorities Budget Office ("ABO") determine how well it is carrying out its mission. Pursuant to this section of law, local authorities are required to file, with the ABO, a Mission Statement and Performance Measurement Report as part of the Annual Report. Every local authority is also expected to annually review its mission statement and measures and publish a measurement report. The Mission Statement and Measurement Report are also required to be posted on the entity website.

### **Mission Statement Measurements:**

#### **Performance Goal #1:**

**Finance the construction of a wastewater treatment plant and related piping and pump stations in the Town of Tuxedo, NY**

*Performance Measurement: The Corporation met this performance goal in 2015 through the issuance of Bonds. The proceeds of the Bonds financed the construction of the WWTP and related piping and pump stations. The WWTP will provide sewer service to two districts within the Town.*

*Construction of the waste water treatment plant has been substantially completed. The facility received permanent power on July 10, 2017. Clean water commissioning tests were completed in August and final testing completed in November. The waste water treatment plant is expected to begin operations in 2019.*

#### **Performance Goal #2:**

**Negotiate and finalize all agreements necessary for the financing and construction of the wastewater treatment plant as may be required and for the ongoing operations and maintenance of the system**

*Performance Measurement: Completed in 2015. In connection with the issuance of the Bonds, the Corporation executed and delivered several documents and/or agreements, including, but not limited to: a Trust Indenture, the Bonds, a Lease Agreement, a Sewer Services Agreement, a Sewer Funding Agreement, an Administrative Agreement, a Tax Certificate and Agreement, Form 8038-G, a Private Placement Agreement, a Private Placement Memorandum, a Continuing Disclosure Agreement and certain related documents.*

*Agreements are ongoing in 2020.*

#### **Performance Goal #3:**

**Fully comply with the requirements of the Public Authorities Reporting Information System ("PARIS") as required by the Public Authorities Accountability Act of 2005 and the Public Authorities Reform Act of 2009**

*Performance Measurement:* The Corporation has successfully submitted the 2020 Budget Report into PARIS, as well as the year end entries required for 2019. The Corporation will continue to comply with the PARIS reporting requirements.

**Performance Goal #4:**

**Encourage full board participation in State-approved training regarding their legal, fiduciary, financial and ethical responsibilities as board members of the TFLDC within one year of appointment to the board.**

*Performance Measurement:* Board members have been advised of the requirement to attend state-approved training.

**Performance Goal #5:**

**Comply with the requirements of the Open Meetings Law and Freedom of Information Act to ensure that the actions of the Corporation are transparent and accountable**

*Performance Measurement:* It is required that each meeting of the Corporation Board be noticed according to the requirements of the Open Meetings Law. The Notices, Agendas and the Minutes from the meetings will be posted on the Corporation's website along with other relevant documents such as project information, policies, organizational information, board composition, agreements, etc.

**Schedule of Bonds Outstanding; Debt Schedule:**

**Schedule of Bonds and Notes Outstanding at the End of its Fiscal Year**

As of December 31, 2019, the amount of Bonds outstanding was \$30,000,000.00. The Bonds are required to be redeemed each November 1, beginning November 1, 2021.

**Bonds Payable**

On June 17, 2015, the Corporation issued the Bonds which are term bonds due November 1, 2047 that bear interest at 6.550% per annum. The Bonds will be redeemed with sinking fund payments from 2021 to 2047. The Corporation's debt will be paid with the collection of service fees paid by the Town from Special Assessments imposed on the chargeable properties benefiting from the public improvements. Table 1 below shows the amount of Bonds payable as of December 31, 2018 and 2019:

|                            | Bond<br>Issuance     | Increase    | Decrease         | Ending<br>Balance    | Due within One<br>Year |
|----------------------------|----------------------|-------------|------------------|----------------------|------------------------|
| <b>2018</b>                |                      |             |                  |                      |                        |
| Series 2015 Bonds          | \$ 30,000,000        | \$ -        | \$ -             | \$ 30,000,000        | \$ -                   |
| Less: Unamortized discount | (544,320)            | -           | \$ 23,460        | (520,860)            | 23,460                 |
| Total Bonds Payable        | <u>\$ 29,455,680</u> | <u>\$ -</u> | <u>\$ 23,460</u> | <u>\$ 29,479,140</u> | <u>\$ 23,460</u>       |

|                            | Beginning Balance    | Increase    | Decrease         | Ending<br>Balance    | Due within One<br>Year |
|----------------------------|----------------------|-------------|------------------|----------------------|------------------------|
| <b>2019</b>                |                      |             |                  |                      |                        |
| Series 2015 Bonds          | \$ 30,000,000        | \$ -        | \$ -             | \$ 30,000,000        | \$ -                   |
| Less: Unamortized discount | (520,860)            | -           | 23,460           | (497,400)            | 23,460                 |
| Total Bonds Payable        | <u>\$ 29,479,140</u> | <u>\$ -</u> | <u>\$ 23,460</u> | <u>\$ 29,502,600</u> | <u>\$ 23,460</u>       |

## Debt Service Schedule

Table 2 below shows the estimated net debt service schedule for the outstanding Bonds according to the Private Placement Memorandum.

**Table 2**  
**Estimated Net Debt Service Schedule**

| <b>Series 2015 Bonds</b> |                      |                         |                         |
|--------------------------|----------------------|-------------------------|-------------------------|
| <b>Year Ending</b>       | <b>Principal</b>     | <b>Interest</b>         | <b>Debt Service</b>     |
| 11/01/15                 | \$ -                 | \$ 731,416.67           | \$ 731,416.67           |
| 11/01/16                 | -                    | 1,965,000.00            | 1,965,000.00            |
| 11/01/17                 | -                    | 1,965,000.00            | 1,965,000.00            |
| 11/01/18                 | -                    | 1,965,000.00            | 1,965,000.00            |
| 11/01/19                 | -                    | 1,965,000.00            | 1,965,000.00            |
| 11/01/20                 | -                    | 1,965,000.00            | 1,965,000.00            |
| 11/01/21                 | 5,000                | 1,965,000.00            | 1,970,000.00            |
| 11/01/22                 | 45,000               | 1,964,672.50            | 2,009,672.50            |
| 11/01/23                 | 90,000               | 1,961,725.00            | 2,051,725.00            |
| 11/01/24                 | 135,000              | 1,955,830.00            | 2,090,830.00            |
| 11/01/25                 | 190,000              | 1,946,987.50            | 2,136,987.50            |
| 11/01/26                 | 245,000              | 1,934,542.50            | 2,179,542.50            |
| 11/01/27                 | 305,000              | 1,918,495.00            | 2,223,495.00            |
| 11/01/28                 | 365,000              | 1,898,517.50            | 2,263,517.50            |
| 11/01/29                 | 435,000              | 1,874,610.00            | 2,309,610.00            |
| 11/01/30                 | 510,000              | 1,846,117.50            | 2,356,117.50            |
| 11/01/31                 | 590,000              | 1,812,712.50            | 2,402,712.50            |
| 11/01/32                 | 680,000              | 1,774,067.50            | 2,454,067.50            |
| 11/01/33                 | 770,000              | 1,729,527.50            | 2,499,527.50            |
| 11/01/34                 | 870,000              | 1,679,092.50            | 2,549,092.50            |
| 11/01/35                 | 980,000              | 1,622,107.50            | 2,602,107.50            |
| 11/01/36                 | 1,095,000            | 1,557,917.50            | 2,652,917.50            |
| 11/01/37                 | 1,220,000            | 1,486,195.00            | 2,706,195.00            |
| 11/01/38                 | 1,355,000            | 1,406,285.00            | 2,761,285.00            |
| 11/01/39                 | 1,500,000            | 1,317,532.50            | 2,817,532.50            |
| 11/01/40                 | 1,655,000            | 1,219,282.50            | 2,874,282.50            |
| 11/01/41                 | 1,820,000            | 1,110,880.00            | 2,930,880.00            |
| 11/01/42                 | 2,000,000            | 991,670.00              | 2,991,670.00            |
| 11/01/43                 | 2,190,000            | 860,670.00              | 3,050,670.00            |
| 11/01/44                 | 2,395,000            | 717,225.00              | 3,112,225.00            |
| 11/01/45                 | 2,610,000            | 560,352.50              | 3,170,352.50            |
| 11/01/46                 | 2,845,000            | 389,397.50              | 3,234,397.50            |
| 11/01/47                 | 3,100,000            | 203,050.00              | 3,303,050.00            |
| <b>Total</b>             | <b>\$ 30,000,000</b> | <b>\$ 50,260,879.17</b> | <b>\$ 80,260,879.17</b> |

## **Biographical Information:**

Please see Exhibit B attached hereto.

## **Projects Undertaken During 2019:**

The Corporation caused the completion of construction of the wastewater treatment plant during 2017, made possible by the issuance of the Bonds in 2015. The WWTP will service two improvement districts within the Town and is required in order to support the development of a proposed 1,200 unit housing development. This housing development will increase the tax base in the Town.

## **Real Property Acquired During 2019:**

No additional real property was acquired in 2019.

## **Code of Ethics:**

### THE TUXEDO FARMS LOCAL DEVELOPMENT CORPORATION

#### CODE OF ETHICS

The members of the board (the "Board") of the Corporation, a duly established local development corporation created pursuant to Section 1411 of the Not-for-Profit Corporation Law of the State of New York (the "State"), along with the officers and staff of the Corporation, shall comply with and adhere to the provisions of the Not-For-Profit Corporation Law of the State.

Further, no director, officer, or employee of the Corporation shall (1) accept other employment which will impair his or her independence of judgment in the exercise of his or her official duties; (2) accept employment or engage in any business or professional activity which will require him or her to disclose confidential information which he or she has gained by reason of his or her official position of authority; (3) disclose confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests; (4) use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself or others; (5) engage in any transaction as a representative or agent of Corporation with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with proper discharge of his or her official duties; (6) not, by his or her conduct, give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person; (7) abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by him or her or which will otherwise create substantial conflict between his or her duty in

the public interest and his or her private interest; and (8) endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

### **Assessment and Effectiveness of Internal Controls:**

Please see attached 2019 audited financial statements dated March 21, 2020 attached hereto as Exhibit A.

### **Statutory Authority:**

Please see Exhibit C attached hereto.

### **Board Structure:**

#### **Committees and Committee Members**

Audit Committee – Stephen Arber, Chair, Michael Rost and Maureen Coen  
Finance Committee – Michael Rost, Chair, Stephen Arber and Maureen Coen  
Governance Committee – Maureen Coen, Chair, Michael Rost and Maureen Coen

#### **Board Meetings and Attendance**

|  |
|--|
| March 25, 2019   |
| <i>Michael Rost</i><br><i>Maureen Coen</i><br><i>Stephen Arber</i><br><i>Rachel Baranello</i><br><i>Jaymie Sheehan</i> |

### **Certificate of Incorporation and By-Laws:**

Please see Exhibit D attached hereto.

## **Four Year Financial Plan:**

Table 5 on the following page incorporates the required service fee components and estimated budget for purposes of estimating the Special Assessment Requirement. As estimated and shown in detail below, there were no Special Assessments to be collected for the Farms District or Hamlet District in 2018. As a result, the Special Assessment Requirement for 2019 is zero. The proposed budgets for fiscal years 2020 through 2023 shown in Table 5 on the following page represent estimates of future revenues and expenditures based on information stipulated in the executed Bond documents.

**Appendix C**  
**PARIS Budget**  
**Calendar Year 2019**

|  | Last Year<br>(Actual)<br>2017 | Current Year<br>(Estimated)<br>2018 | Next Year<br>(Adopted)<br>2019 | Proposed<br>2020   | Proposed<br>2021   | Proposed<br>2022   |
|--|-------------------------------|-------------------------------------|--------------------------------|--------------------|--------------------|--------------------|
| <b>Revenue &amp; Financial Sources</b>   |                               |                                     |                                |                    |                    |                    |
| <b>Operating Revenues</b>  |                               |                                     |                                |                    |                    |                    |
| Charges for services   | \$0                           | \$922,152                           | \$2,028,213                    | \$2,087,400        | \$2,212,219        | \$2,365,592        |
| Rentals & Financing Income   | \$0                           | \$0                                 | \$0                            | \$0                | \$0                | \$0                |
| Other Operating Revenues   | \$0                           | \$0                                 | \$0                            | \$0                | \$0                | \$0                |
| <b>O&amp;M Fund Available to pay O&amp;M Service Fee</b>                           |                               |                                     |                                |                    |                    |                    |
| Investment Earnings  | \$53,860                      | \$44,079                            | \$20,219                       | \$0                | \$0                | \$0                |
| State Subsidies / Grants   | \$0                           | \$0                                 | \$0                            | \$0                | \$0                | \$0                |
| Federal Subsidies / Grants   | \$0                           | \$0                                 | \$0                            | \$0                | \$0                | \$0                |
| Municipal Subsidies / Grants   | \$0                           | \$0                                 | \$0                            | \$0                | \$0                | \$0                |
| Public Authority Subsidies   | \$0                           | \$0                                 | \$0                            | \$0                | \$0                | \$0                |
| Other Non-Operating Revenues   | \$0                           | \$0                                 | \$36,568                       | \$320,000          | \$104,546          | \$0                |
| Proceeds from the issuance of debt   | \$11,116,976                  | \$2,104,358                         | \$755,923                      | \$0                | \$0                | \$0                |
| <b>Total Revenues and Financing Sources</b>  | <b>\$11,170,836</b>           | <b>\$3,070,589</b>                  | <b>\$2,840,923</b>             | <b>\$2,407,400</b> | <b>\$2,316,765</b> | <b>\$2,365,592</b> |
| <b>Expenditures</b>  |                               |                                     |                                |                    |                    |                    |
| <b>Operating Expenditures</b>  |                               |                                     |                                |                    |                    |                    |
| Salaries and Wages   | \$0                           | \$0                                 | \$0                            | \$0                | \$0                | \$0                |
| Other Employee Benefits  | \$0                           | \$0                                 | \$0                            | \$0                | \$0                | \$0                |
| Professional Services Contracts  | \$51,842                      | \$68,000                            | \$120,000                      | \$122,400          | \$124,848          | \$127,345          |
| Supplies and Materials   | \$0                           | \$0                                 | \$0                            | \$0                | \$0                | \$0                |
| Other Operating Expenditures   | \$0                           | \$0                                 | \$0                            | \$215,454          | \$221,917          | \$228,575          |
| <b>Non-Operating Expenditures</b>  |                               |                                     |                                |                    |                    |                    |
| Payment of principal on bonds and financing arrangements                           | \$0                           | \$0                                 | \$0                            | \$0                | \$5,000            | \$45,000           |
| Interest and other financing charges   | \$1,965,000                   | \$1,965,000                         | \$1,965,000                    | \$1,965,000        | \$1,965,000        | \$1,964,673        |
| Subsidies to other public authorities  | \$0                           | \$0                                 | \$0                            | \$0                | \$0                | \$0                |
| Capital asset outlay   | \$9,153,994                   | \$1,001,021                         | \$755,923                      | \$0                | \$0                | \$0                |
| Grants and Donations   | \$0                           | \$0                                 | \$0                            | \$0                | \$0                | \$0                |
| Other Non-Operating Expenditures   | \$0                           | \$0                                 | \$0                            | \$0                | \$0                | \$0                |
| <b>Total Expenditures</b>  | <b>\$11,170,836</b>           | <b>\$3,034,021</b>                  | <b>\$2,840,923</b>             | <b>\$2,302,854</b> | <b>\$2,316,765</b> | <b>\$2,365,592</b> |
| Capital Contributions  | \$0                           | \$0                                 | \$0                            | \$0                | \$0                | \$0                |
| <b>Excess (deficiency) of revenues and capital contributions over expenditures</b> | <b>\$0</b>                    | <b>\$36,568</b>                     | <b>\$0</b>                     | <b>\$104,546</b>   | <b>\$0</b>         | <b>\$0</b>         |

<sup>1</sup>The District Budget addresses the revenue and expenditure items that require appropriation by the LDC Board. Certain funds held by the Trustee may be disbursed by the Trustee pursuant to the Trust Indenture without further appropriation by the LDC Board. Capitalized interest may also be disbursed by the trustee without further appropriation by the LDC Board, but is included as it is necessary to determine the amount of special assessment revenues to be included in the budget.

Board Performance Evaluation:

Please see Exhibit E attached hereto.

**Exhibit A**

**Audited Financial Statements**

## **Exhibit B**

### **Board Member Biographies**

#### **Stephen Arber, CPA, JD, LL.M**

Senior Manager, International Tax  
Specialized Tax Services

#### **Experience**

Stephen has over fifteen years of experience in public accounting and law, including a Big Four accounting firm in New York.

Stephen's experience includes international tax consulting and compliance, foreign tax credit planning, earnings and profit analysis as well as ASC 740 for both domestic and foreign companies.

He also has significant experience in domestic corporate, partnership, and individual tax consulting and compliance and has represented taxpayers during federal, state and local tax examinations.

He has been published in several tax journals, including The Tax Advisor and Practical US/International Tax Strategies and is a frequent contributor to BDO's Thought Leadership Alerts.

#### **Professional Affiliations**

American Bar Association

American Institute of Certified Public Accountants

International Fiscal Association

New York State Society of Certified Public Accountants

#### **Education**

B.S., Muhlenberg College

JD cum laude, Thomas M. Cooley Law School

LL.M., Georgetown University Law Center

#### **Michael Rost**

Supervisor, Town of Tuxedo, NY

Mr. Rost is currently in his 2<sup>nd</sup> year of his 2<sup>nd</sup> term as Supervisor of the Town of Tuxedo, New York. The town is comprised of 3,400 residents, 1,200 homes and a budget of \$9 million.

Mr. Rost has been employed by several Fortune 100 companies over the last 20 years in various management capacities. While working for these companies he managed large workforces and multi-million dollar budgets. He has spent numerous hours throughout the years working closing with the many families in the Town of Tuxedo

through several not-for-profit organizations. It is through that work that he developed a heart for public service.

"There is no greater honor than that of public service."

## Maureen Coen

Maureen is Managing Director at Credit Suisse in New York and has held various roles at Credit Suisse since joining the firm in 2000. Currently, Maureen heads the Capital and liquidity Management function for the Asia Pacific Region for Credit Suisse.

Prior to joining Credit Suisse, Maureen was a Managing Director at Moody's Investor Service and prior to that, a lawyer at the firm of Seward & Kissel in New York.

Maureen holds both a Juris Doctorate degree and a MBA. She is also active as a director on numerous not-for-profit boards.

## Exhibit C

### Section 1411 of the New York State Not-for-Profit-Corporation Law

#### New York Not-for-Profit Corporation Laws

#### Section 1411. Local development corporations.

(a) Purposes.

This section shall provide an additional and alternate method of incorporation or reincorporation of not-for-profit corporations for any of the purposes set forth in this paragraph and shall not be deemed to alter, impair or diminish the purposes, rights, powers or privileges of any corporation heretofore or hereafter incorporated under this section or under the stock or business corporation laws. Corporations may be incorporated or reincorporated under this section as not-for-profit local development corporations operated for the exclusively charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding a community or geographical area by attracting new industry to the community or area or by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest, and any one or more counties, cities, towns or villages of the state, or any combination thereof, or the New York job development authority in exercising its power under the public authorities law to encourage the organization of local development corporations, may cause such corporations to be incorporated by public officers or private individuals or reincorporated upon compliance with the requirements of this section, and it is hereby found, determined and declared that in carrying out said purposes and in exercising the powers conferred by paragraph (b) such corporations will be performing an essential governmental function.

(b) Type of corporation.

A local development corporation is a charitable corporation under this chapter.

(c) Powers.

In furtherance of its purposes set forth in paragraph (a) but not for any other purposes, a local development corporation incorporated or reincorporated under this section shall have the following powers: to construct, acquire, rehabilitate and improve for use by others industrial or manufacturing plants in the territory in which its operations are principally to be conducted, to assist financially in such construction, acquisition, rehabilitation and improvement, to maintain such plants for others in such territory, to disseminate information and furnish advice, technical assistance and liaison with federal, state and local authorities with respect thereto, to acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein, to borrow money and to issue negotiable bonds, notes and other obligations therefor, and notwithstanding section 510 (Disposition of all or substantially all assets) without leave of the court, to sell, lease, mortgage or otherwise dispose of or encumber

any such plants or any of its real or personal property or any interest therein upon such terms as it may determine and, in connection with loans from the New York job development authority, to enter into covenants and agreements and to comply with all the terms, conditions and provisions thereof, and otherwise to carry out its corporate purposes and to foster and encourage the location or expansion of industrial or manufacturing plants in the territory in which the operations of such corporation are principally to be conducted, provided, however, that no such corporation shall attempt to influence legislation by propaganda or otherwise, or participate or intervene, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

(d) Purchase or lease of real property owned by a county, city, town or village.

(1) The local legislative body of a county, city, town or village or, if there is a board of estimate in a city, then the board of estimate, may by resolution determine that specifically described real property owned by the county, city, town or village is not required for use by such county, city, town or village and authorize the county, city, town or village to sell or lease such real property to a local development corporation incorporated or reincorporated under this article; provided, however, that title to such land be not declared inalienable as a forest preserve or a parkland.

(2) Notwithstanding the provisions of any general, special or local law, charter or ordinance to the contrary, such sale or lease may be made without appraisal, public notice, (except as provided in subparagraph (4)) or public bidding for such price or rental and upon such terms as may be agreed upon between the county, city, town or village and said local development corporation; provided, however, that in case of a lease the term may not exceed ninety-nine years and provided, further, that in cities having a population of one million or more, no such sale or lease shall be made without the approval of a majority of the members of the borough improvement board of the borough in which such real property is located.

(3) Before any sale or lease to a local development corporation incorporated or reincorporated under this article shall be authorized, a public hearing shall be held by the local legislative body, or by the board of estimate, as the case may be, to consider the proposed sale or lease.

(4) Notice of such hearing shall be published at least ten days before the date set for the hearing in such publication and in such manner as may be designated by the local legislative body, or the board of estimate as the case may be.

(5) A local development corporation, incorporated or reincorporated under this section, which purchases or leases real property from a county, city, town or village, shall not, without the written approval of the county, city, town or village, use such real property for any purpose except the purposes set forth in the certificate of incorporation or reincorporation of said local development corporation. In the event such real property is used in violation of the restrictions of this paragraph, the attorney-general may bring an action or special proceeding to enjoin the unauthorized use.

(e) Certificate of incorporation.

In addition to the requirements of section 402 (Certificate of incorporation; contents) the certificate of incorporation or

reincorporation of a local development corporation incorporated or reincorporated under this article shall state (1) that all income and earnings of such corporation shall be used exclusively for its corporate purposes or accrue and be paid to the New York job development authority, (2) that no part of the income or earnings of such corporation shall inure to the benefit or profit of, nor shall any distribution of its property or assets be made to any member or private person, corporate or individual, or any other private interest, except that the certificate of incorporation or reincorporation may authorize the repayment of loans and may also authorize the repayment of contributions (other than dues) to the local development corporation but only if and to the extent that any such contribution may not be allowable as a deduction in computing taxable income under the internal revenue code of nineteen hundred fifty-four, (3) that if such corporation accepts a mortgage loan or loans from the New York job development authority, such corporation shall be dissolved in accordance with the provisions of paragraph (g) upon the repayment or other discharge in full by such corporation of all such loans.

(f) Exemption of income from taxation.

The income and operations of corporations incorporated or reincorporated under this section shall be exempt from taxation.

(g) Dissolution.

Upon the dissolution of any local development corporation incorporated or reincorporated under this section no member or private person, corporate or individual, or other private interest, shall be entitled to any distribution or division of its remaining funds and other property and rights and interests in property, and the balance thereof, after the payment of all debts and liabilities of the corporation of whatsoever kind and nature, (including the payment of loans and contributions the repayment of which has been authorized in its certificate of incorporation or reincorporation) shall be distributed to one or more counties, cities, towns or villages within the territory designated in its certificate of incorporation or reincorporation as the territory in which its operations are principally to be conducted, for furtherance of the purposes set forth in paragraph (a), or to the New York job development authority, as shall be provided by said corporation or by order of the supreme court of the state of New York pursuant to section 1008 (Jurisdiction of supreme court to supervise dissolution and liquidation).

(h) Corporations heretofore incorporated.

Any corporation heretofore incorporated under the membership corporations law or this chapter, or under the stock or business corporation law for any of the purposes set forth in paragraph (a) of this section may amend its certificate of incorporation and be reincorporated as a local development corporation organized under this section by making and filing in the office of the secretary of state a certificate, stating the name of such corporation, and, if it has been changed, the name under which it was originally incorporated, the date of its incorporation, the names and post-office addresses of its members or of the holders of record of all of the outstanding shares of such corporation entitled to vote with relation to the proceedings provided for in the certificate and that such corporation has elected to become and be a local development corporation organized and operated under and by virtue of this section. Such certificate shall be either (1)

subscribed in person or by proxy by all of the members or the holders of record of all of the outstanding shares of such corporation entitled to vote with relation to such proceedings and shall have annexed an affidavit of the secretary or an assistant secretary that the persons who have executed the certificate, in person or by proxy, constitute all of the members or the holders of record of all of the outstanding shares of the corporation entitled to vote with relation to the proceedings provided for in the certificate, or (2) subscribed by the president or a vice president and the secretary or an assistant secretary and shall have annexed an affidavit of such officers stating that they have been authorized to execute and file such certificate by the votes, cast in person or by proxy, of all of the members or of the holders of record of all of the outstanding shares of such corporation entitled to vote with relation to such proceedings at the meeting at which such votes were cast, and that such votes were cast at a meeting of members or stockholders held on a date specified, upon notice pursuant to section 605 (Notice of meeting of members) or to section 605 of the Business Corporation Law. Every certificate filed under this paragraph shall have endorsed thereon or annexed thereto the approval of a justice of the supreme court of the judicial district in which the office of the corporation is to be located. A reincorporation pursuant to this paragraph shall not effect a dissolution of the corporation, but shall be deemed a continuation of its corporate existence, without affecting its then existing property rights or liabilities, or the liabilities of its members or officers as such, but thereafter it shall have only such rights, powers and privileges, and be subject only to such other duties and liabilities, as a corporation created for the same purposes under this article.

(i) Effect of section.

Corporations incorporated or reincorporated under this section shall be organized and operated exclusively for the purposes set forth in paragraph (a), shall have, in addition to the powers otherwise conferred by law, the powers conferred by paragraph (c) and shall be subject to all the restrictions and limitations imposed by paragraph (e) and paragraph (g). In so far as the provisions of this section are inconsistent with the provisions of any other law, general or special, the provisions of this section shall be controlling as to corporations incorporated or reincorporated hereunder

**Exhibit D**

**Certificate of Incorporation and By-Laws**

**CERTIFICATE OF INCORPORATION**

**OF**

**TUXEDO FARMS LOCAL DEVELOPMENT CORPORATION**

A Not-For-Profit Local Development Corporation  
under Section 1411 of the Not-For-Profit  
Corporation Law of the State of New York

**THE UNDERSIGNED**, being over the age of eighteen years, for the purpose of forming a not-for-profit local development corporation pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York, hereby certifies as follows:

**FIRST:** The name of the corporation shall be "Tuxedo Farms Local Development Corporation" (hereinafter referred to as the "Corporation").

**SECOND:** The Corporation will be a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law of the State of New York and, as provided in Section 1411 of the Not-For-Profit Corporation Law, will be a charitable Corporation as defined in Section 201 of the Not-For-Profit Corporation Law. The Corporation shall serve as a supporting organization for, but operate separate and apart from the Town of Tuxedo, New York (the "Town").

**THIRD:** The purposes for which the Corporation is to be formed and operated are exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, to relieve and reduce unemployment, promote and provide for additional and maximum employment, improve and maintain job opportunities, and lessen the burden of government and act in the public interest. In furtherance of said purposes, the Corporation's powers shall include:

(a) To foster the creation, retention and expansion of jobs and economic opportunities for the benefit of the Town, State and local economies; and

(b) To construct, acquire, rehabilitate and improve for use by others, facilities in the territory in which its operations are principally to be conducted, to assist financially in such construction, acquisition, rehabilitation and improvement, to maintain and/or lease such facilities on its behalf or for others in such territory; to disseminate information and furnish advice, technical assistance and liaison with federal, state and local authorities with respect thereto;

(c) To acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein;

(d) To apply for loans and borrow money without limit as to amount; to make, draw, accept, endorse, execute and issue negotiable bonds, debentures, notes and other obligations therefor, including, without limitation, to issue negotiable bonds, notes or other obligations on behalf of the Town in support of economic and community development activities thereby lessening the burdens of the Town;

(e) To sell, lease, mortgage or otherwise dispose of or encumber any such facilities or any of its real or personal property or any interest therein upon such terms as it may determine;

(f) To enter into covenants and agreements and to comply with all the terms, conditions and provisions thereof, and otherwise to carry out its corporate purposes and to foster and encourage the location or expansion of facilities and related businesses in the territory in which the operations of the Corporation are principally to be conducted;

(g) To apply for and make grants and loans and to execute any and all documents necessary in connection therewith;

(h) To do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof, but not for the pecuniary profit or financial gain of its members, directors, officers or any private person.

(i) In general, to perform any and all acts and things, and exercise any and all powers which may now or hereafter be lawful for the Corporation to do or exercise under and pursuant to the laws of the State of New York for the purpose of accomplishing any of the foregoing purposes of the Corporation.

FOURTH: The Corporation's mission and public objective, which the Corporation's purposes will achieve, include, but are not limited to, the lessening of the burdens of government by undertaking and promoting economic development initiatives in the Town that will include real estate leasing, acquisition, development and management, real estate project finance, and other community-based economic development activities permissible under the Not-For-Profit Corporation Law.

FIFTH: The operations of the Corporation will be principally conducted within the territory of the Town of Tuxedo, New York.

SIXTH: Pursuant to the requirements of Section 1411(e) of the Not-For-Profit Corporation Law:

(a) All income and earnings of the Corporation shall be used exclusively for its corporate purposes with the intent being that all income and earnings will be expended or deposited in appropriate reserves for corporate purposes; to the extent not so used, the income and earnings will accrue and be paid to the Job Development Authority to the extent required by Section 1411 of the Not-for-Profit Corporation Law.

(b) The property of the Corporation is irrevocably dedicated to charitable purposes. No part of the income or earnings of the Corporation shall inure to the benefit or profit of, nor shall any distribution of its property or assets be made to, any member, director or officer of the Corporation, or private person, corporate or individual, or to any other private interest, except that the Corporation may repay loans made to it and may repay

contributions (other than dues) made to it to the extent that any such contribution may not be allowable as a deduction in computing taxable income under the Internal Revenue Code of 1986, as amended.

(c) If the Corporation accepts a mortgage loan or loans from the New York Job Development Authority, the Corporation shall be dissolved in accordance with the provisions of paragraph (g) of Section 1411 of the Not-For-Profit Corporation Law upon the repayment or other discharge in full by the Corporation of all such loans.

SEVENTH: (a) The Corporation shall not attempt to influence legislation by propaganda or otherwise, or participate in or intervene, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

(b) The Corporation shall not engage in any activities not permitted to be carried on by an organization exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

(c) Nothing in this Certificate of Incorporation shall authorize this Corporation, directly or indirectly, to engage in or include among its purposes any of the activities mentioned in Section 404(a)-(w) of the Not-for-Profit Corporation Law, and therefore the Corporation is not formed to engage in any activity or for any purpose requiring consent or approval of any state official, department, board, agency or other body and no such consent or approval is required.

EIGHTH: In the event of the dissolution of the Corporation or the winding up of its affairs, the Board of Directors shall, after paying or making provision for the payment of all debts and liabilities of the Corporation of whatsoever kind or nature, distribute all of the remaining assets and property of the Corporation to the Town in furtherance of the purposes set forth in Section 1411 of the Not-for-Profit Corporation Law. Any of such assets not so disposed of shall be disposed of by order of the Supreme Court of the State of New York pursuant to Section 1008 of the Not-For-Profit Corporation Law.

NINTH: The office of the Corporation shall be located in the Town of Tuxedo, Orange County, New York.

TENTH: The offices of the Corporation shall be functionally separate from those of the Town or any of its affiliated entities (collectively, the "Town Entities") (although such office may be in a facility leased from the Town or any of its affiliates on arms-length terms). The Corporation at all times shall:

(a) maintain separate accounting records and other corporate records from those of the Town Entities;

(b) not divert the Corporation's funds to any other person or for other than the use of the Corporation and not commingle any of the Corporation's assets with those of the Town Entities;

(c) pay any employee, consultant or agent of the Corporation, or any other operating expense incurred by the Corporation, from the assets of the Corporation and not from the assets of any of the Town Entities;

(d) maintain its own deposit account or accounts, separate from those of the Town Entities, with commercial banking institutions and/or trust companies;

(e) to the extent that the Corporation contracts or does business with vendors or service providers where the goods and services provided are partially for the benefit of any other person, the costs incurred in so doing shall be fairly allocated to or among the Corporation and such persons for whose benefit the goods and services are provided, and the Corporation and each such person shall bear its fair share of such costs;

(f) conduct its business in its own name and conduct all material transactions between the Corporation and the Town Entities only on an arm's-length basis;

(g) observe all necessary, appropriate and customary corporate formalities, including, but not limited to, holding all regular and special members' and directors'

meetings appropriate to authorize all corporate action, keeping separate and accurate minutes of such meetings, passing all resolutions or consents necessary to authorize actions taken or to be taken, and maintaining accurate and separate books, records, and accounts, including, but not limited to, intercompany transaction accounts. regular members' and directors' meetings shall be held at least annually;

(h) ensure that decisions with respect to its business and daily operations shall be independently made by the Corporation (although the officer making any particular decision also may be an employee, officer or director of the Town Entities);

(i) act solely in its own corporate name and through its own authorized officers and agents, and use its own stationery;

(j) other than as expressly provided herein, pay all expenses, indebtedness and other obligations incurred by it;

(k) not enter into any guaranty, or otherwise become liable, with respect to any obligation of the Town Entities;

(l) cause any financial reports required of the Corporation to be prepared in accordance with generally accepted accounting principles and be audited annually and be issued separately from, although they may be consolidated with, any reports prepared for any member of the Town Entities; and

(m) ensure that at all times it is adequately capitalized to engage in the transactions contemplated herein.

ELEVENTH: The types or classes of Membership in the Corporation and the number of Members of the Corporation shall be described in the By-laws. The initial Members of the Corporation shall be identified in the By-laws.

TWELFTH: The Corporation shall be managed by a Board of Directors consisting of three to nine Directors. Any subsequent increase or decrease in the size of the Board of

Directors will require the unanimous approval of the Members and the affirmative vote of a majority of the Directors.

THIRTEENTH: The names and addresses of the initial Directors of the Corporation will be as follows:

| Name                  | Address   |
|-----------------------|---|
| Mr. Michael Rost      | 14 Circle Drive<br>PO Box 171<br>Tuxedo Park, New York 10987    |
| Mr. Gary Phelps       | 54 East Village Road<br>PO Box 9<br>Tuxedo Park, New York 10987 |
| Ms. Kimberley Galuska | 73 Nursery Road<br>PO Box 423<br>Tuxedo Park, New York 10987    |
| Ms. Nancy Bewlay      | 6 Clubhouse Rd Ext.<br>Tuxedo Park, New York 10987              |
| Mr. Michael Reardon   | 67 Alexander Drive<br>Tuxedo Park, New York 10987               |
| Mr. Frank Peverly     | 64 Cedar Drive<br>Tuxedo Park, New York 10987                   |

FOURTEENTH: The duration of the Corporation shall be perpetual.

FIFTEENTH: The Corporation shall indemnify each Member, each Director, each officer, and, to the extent authorized by the Board of Directors, each other person authorized to act for the Corporation or on its behalf, to the full extent to which indemnification is permitted under the Not-For-Profit Corporation Law.

SIXTEENTH: The Secretary of State of the State of New York State is designated as agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is as follows: Tuxedo Farms Local Development Corporation, One Temple Drive, Tuxedo, New York 10987.

SEVENTEENTH: The By-laws of the Corporation may be adopted, amended or repealed by a majority of the Directors of the Corporation.

EIGHTEENTH: The Corporation will not do any of the following:

(a) Without the affirmative vote of all Members of the Corporation and the affirmative vote of a majority of the Directors, increase or decrease the number of Members of the Corporation or increase or decrease the number of Directors of the Corporation.

(b) Without the affirmative vote of a majority of the Directors of the Corporation and all of the Corporation's Members, (i) dissolve or liquidate, in whole or in part, or institute proceedings to be adjudicated bankrupt or insolvent, (ii) consent to the institution of bankruptcy or insolvency proceedings against it, (iii) file a petition seeking or consenting to reorganization or relief under any applicable federal or state law relating to bankruptcy or insolvency, (iv) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Corporation or a substantial part of its property, (v) make a general assignment for the benefit of creditors, (vi) admit in writing its inability to pay its debts generally as they become due or (vii) take any corporate action in furtherance of the actions set forth in clauses (i) through (vi) of this paragraph.

(c) Without the affirmative vote of all of the Directors of the Corporation and all of the Corporation's Members, merge or consolidate with any other corporation, company or entity or, except to the extent contemplated by paragraph THIRD hereof, sell all or substantially all of its assets or acquire all or substantially all of the assets or capital stock or other ownership interest of any other corporation, company or entity.

IN WITNESS WHEREOF, this certificate has been subscribed this 9<sup>th</sup> day of January, 2015.

/s/ Christopher A. Andreucci  
Christopher A. Andreucci  
99 Garnsey Road  
Pittsford, NY 14534

BY-LAWS

OF

TUXEDO FARMS LOCAL DEVELOPMENT CORPORATION

Adopted January 29, 2015

**BY-LAWS**  
**OF**  
**TUXEDO FARMS LOCAL DEVELOPMENT CORPORATION**  
**ARTICLE I - THE CORPORATION**

**SECTION 1. - NAME.**

The Corporation shall be known as the “TUXEDO FARMS LOCAL DEVELOPMENT CORPORATION.”

**SECTION 2. - OFFICES.**

The principal office of the Corporation shall be located in the Town of Tuxedo, Orange County, New York. The Corporation may also have offices at such other places within the State of New York as the Board of Directors may from time to time determine or the activities of the Corporation may require.

**SECTION 3. - PURPOSES.**

The Corporation shall have such purposes as are now or hereafter set forth in its Certificate of Incorporation.

**ARTICLE II - MEMBERSHIP**

**SECTION 1. - COMPOSITION OF MEMBERSHIP.**

The sole Member of the Corporation shall be the Town of Tuxedo (the “Town”) acting by and through the chief executive officer of the Town, the Town Supervisor, ex officio. The Corporation shall be managed by its Board of Directors in accordance with the provisions contained herein.

**SECTION 2. - RIGHTS AND POWERS OF THE MEMBER.**

The Member shall have and exercise all the rights and powers of corporate Membership created by the laws of the State of New York, the Certificate of Incorporation and the By-Laws of the Corporation.

### SECTION 3. - ANNUAL MEETING OF THE MEMBER

The Member shall hold an annual meeting of the Member within six (6) months after the end of each fiscal year at a convenient time and place designated by the Member. At the annual meeting, the Member shall appoint Directors pursuant to Article III hereof for positions where a new directorship is created or the term of a Director has expired, receive the annual report and transact such other business as may properly come before the meeting.

### SECTION 4. - ANNUAL REPORT TO THE MEMBER.

At the annual meeting of the Member, the Directors or designated officer of the Corporation shall present an annual report showing in appropriate detail the following information:

(a) A complete verified or audited financial statement of the Corporation for the fiscal year immediately preceding the date of the report showing the assets and liabilities, principal changes in assets and liabilities, revenue, receipts, expenses and disbursements of the Corporation; and

(b) A summary of the activities of the Corporation during the preceding year.

The annual report shall be filed with the minutes of the annual meeting.

### SECTION 5. - SPECIAL MEETINGS OF THE MEMBER.

Special meetings of the Member may be called at any time by a majority of the Member and shall be called by the Secretary within fourteen (14) days of receipt of a written request from a majority of the Member. Such request shall state the purpose or purposes for the proposed meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice of such special meeting; provided, however, if by unanimous consent the Member present at such meeting elects to transact business not previously described in the aforementioned notice, then the Corporation may transact such other business.

### SECTION 6. - PLACE OF MEETINGS; ORGANIZATION

All Membership meetings shall be held at the principal office of the Corporation or at such other convenient location as may be determined by the Member. At each Membership meeting, the Member shall preside. The Secretary, or, in his or her absence, a person chosen by the Member, shall keep complete and accurate minutes of the meeting.

### SECTION 7. - NOTICE OF MEMBERSHIP MEETINGS; WAIVERS

(a) Notice of each Membership meeting shall state the purpose or purposes for which the meeting is called, the place, date and time of the meeting and, unless it is the annual meeting, shall indicate that it is being issued by or at the direction of the person or persons calling the meeting. Such notice shall be given either personally or by mail to each Member not less than ten

(10) nor more than fifty (50) days before the date of the meeting. If mailed, the notice is given when deposited in the United States mail, with postage thereon prepaid, directed to a Member at his or her address as it appears on the record of Member or, if he or she shall have filed with the Secretary a written request that notices be mailed to some other address, then directed to such other address.

(b) Formal notice of meeting need not be given to a Member if he or she executes a waiver of notice, either before or after the meeting. The attendance of a Member at a meeting, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice.

#### SECTION 8. – QUORUM OF MEMBER

(a) The presence of at least a majority of the Member shall constitute a quorum for the transaction of business at any annual or special Membership meeting.

(b) A majority of the Member present at a meeting, whether or not a quorum is present, may adjourn any Membership meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given to absent Member if the time and place is announced at the meeting adjourned.

#### SECTION 9. - ACTION BY THE MEMBER

(a) Each Member shall be entitled to one vote on each matter properly submitted to the Member for action at any meeting of the Member. Unless otherwise required by law or these By-Laws, the vote of a majority of Member present at the time of a vote at a duly convened meeting, provided a quorum is then present, shall be the act of the Member.

(b) Every Member entitled to vote at a meeting of Member may authorize another person or persons to act for him or her by proxy. Every proxy must be signed by the Member or the Member's attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Member executing it, except as otherwise provided by law.

#### SECTION 10. - PROPERTY RIGHTS OF MEMBER

The Member shall not have any rights or interests in or to the property or assets of the Corporation.

## **ARTICLE III - BOARD OF DIRECTORS**

### **SECTION 1. - POWER OF BOARD OF DIRECTORS.**

The Corporation shall be managed by its Board of Directors, which shall establish all general policies governing its operations.

### **SECTION 2. - NUMBER, ELECTION AND TERM OF DIRECTORS.**

(a) The number of Directors shall be no less than three (3) but no more than nine (9), with the exact number of Directors to be established by a resolution adopted by the Member. All members shall be appointed by the Town Supervisor of the Town of Tuxedo with the consent of the Town Board of the Town of Tuxedo. The Directors shall exercise all rights of Directors as described herein and in the Certificate of Incorporation. Any subsequent increase or decrease in the size of the Board of Directors will require the approval of the Member. As used in these By-Laws, "the entire Board of Directors" means the total number of Directors that the Corporation would have if there were no vacancies on the Board.

(b) All Directors shall serve at the pleasure of the Member.

(c) All Directors of the Board shall participate in training approved by the State of New York regarding their legal, fiduciary, financial and ethical responsibilities as Directors within one (1) year of appointment to the Board. Thereafter, the Directors shall participate in such continuing training as may be required to remain informed of best practices, regulatory and statutory changes relating to the effective oversight of the management and financial activities of the Corporation and the adhere to the highest standards of responsible governance.

(d) Pursuant to Section 2825 of the Public Authorities Law, the majority of the Directors shall be Independent Directors, as such term is defined in paragraph (e) below.

(e) Independence. For the purposes of these By-Laws, an Independent Director means any person who:

(i) is not, and in the past two (2) years has not been, employed by the Corporation or another corporate body having the same ownership and control of the Corporation in an executive capacity;

(ii) is not, and in the past two (2) years has not been, employed by an entity that received remuneration valued at more than fifteen thousand dollars (\$15,000.00) for goods and services provided to the Corporation or received any other form of financial assistance valued at more than fifteen thousand dollars (\$15,000.00) from the Corporation;

(iii) is not a relative of an executive officer or employee in an executive position of the Corporation or another corporate body having the same ownership and control of the Corporation; and

(iv) is not, and in the past two (2) years has not been, a lobbyist registered under a state or local law and paid by a client to influence the management decisions, contract awards, rate determinations or any other similar actions of the Corporation or another corporate body having the same ownership and control of the Corporation.

(f) A Chairperson and Vice-Chairperson shall be elected from among the Directors of the Board at the annual meeting of the Board of Directors. The term of office for the Chairperson and Vice-Chairperson shall extend for one year after his or her election and until a successor is elected. The Chairperson and Vice-Chairperson shall be eligible to serve an unlimited number of consecutive terms.

### SECTION 3. - RESIGNATIONS AND REMOVAL OF DIRECTORS.

(a) Any Director of the Corporation may resign at any time by giving written notice to the other Directors or to the President or the Secretary. Such resignation shall take effect at the time specified therein or, if no time is specified, then on delivery. Acceptance of the resignation shall not be necessary to make it effective.

(b) Any Director may be removed from the Board with or without cause by the Member or for cause by vote of a majority of the Directors provided there is a quorum of not less than a majority of the entire Board present.

### SECTION 4. - NEWLY CREATED DIRECTORSHIPS AND VACANCIES.

Newly created directorships resulting from an increase in the number of Directors, and vacancies occurring for any reason, shall be filled by the Member pursuant to Article III hereof as soon as practicable but in no event later than sixty (60) days after the increase or vacancy occurs. A Director appointed to fill a vacancy caused by resignation, death, disability or removal shall hold office for the unexpired term of his or her predecessor in office and until a successor is appointed and takes office.

### SECTION 5. - ANNUAL MEETING.

The annual meeting of the Board of Directors shall be held after the annual meeting of the Member of the Corporation described in Article II, Section 3 above at a convenient time and location designated by the Board. Written notice of the annual meeting shall be mailed or delivered to each Director of the Corporation prior to the meeting.

### SECTION 6. - ANNUAL REPORT.

A Director designated by the Member or the President/Chief Executive Officer and the Treasurer shall present at the annual meeting of the Board of Directors a copy of the annual report described in Article II, Section 4 above.

## SECTION 7. - SPECIAL MEETINGS AND NOTICE.

Special meetings of the Board of Directors may be called at any time by a majority of Directors or by the President/Chief Executive Officer or any other officer of the Corporation. Written notice shall be mailed or delivered to each Director of the Corporation prior to the meeting. Said notice shall state the purposes, time and place of the special meeting and that no business other than that specified in the notice may be transacted; provided, however, if by unanimous consent all of the Directors present at such meeting elect to transact business not previously described in the aforementioned notice, then the Directors may transact such other business.

## SECTION 8. - WAIVERS OF NOTICE.

Notice of a meeting need not be given to any Director who submits a signed waiver of notice whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to him or her.

## SECTION 9. - PLACE OF MEETINGS.

The Board of Directors may hold its meetings at such place or places within the Town of Tuxedo as the Directors may from time to time by resolution determine.

## SECTION 10. – OPEN MEETINGS

The Corporation is subject to Open Meetings Law, the Corporation shall comply with the Open Meetings Law of the State of New York, as set forth within Article 7 of the Public Officers Law.

## SECTION 11. – FREEDOM OF INFORMATION

The Corporation is subject to Freedom of Information Law, the Corporation shall comply with the Freedom of Information Law of the State of New York, as set forth within Article 6 of the Public Officers Law.

## SECTION 12. – PUBLIC AUTHORITIES ACCOUNTABILITY ACT

The Corporation is subject to the Public Authorities Accountability Act of 2005 as amended by Chapter 506 of the Laws of 2009 of New York State (collectively, the “PAAA”) and shall comply with the PAAA, as set forth within the New York State Public Authorities Law.

## SECTION 13. – STATE ENVIRONMENTAL QUALITY REVIEW ACT

Upon the determination of the Board of Directors to do business with the State of New York, the Corporation shall comply with the State Environmental Quality Review Act, as set forth within Article 8 of the New York Environmental Conservation Law.

#### SECTION 14. - QUORUM AND ADJOURNED MEETINGS.

(a) A majority of the entire Board of Directors shall constitute a quorum for the transaction of business at meetings of the Board. When a quorum is once present to organize a meeting, it shall not be broken by the subsequent withdrawal of any Director(s).

(b) A majority of the Directors present, whether or not a quorum is present, may adjourn any Board meeting to another time and place. If a quorum is present at the adjourned meeting, any business may be transacted that might have been transacted on the original date of the meeting. Notice of the adjourned meeting shall be given to all Directors.

#### SECTION 15. - ACTION BY THE BOARD OF DIRECTORS.

Any corporate action to be taken by the Board of Directors means action at a meeting of the Board. Each Director shall have one vote regarding any corporate action to be taken by the Board. Except as otherwise provided by law or these By-Laws, the vote of a majority of the Directors present at the time of the vote at a duly convened meeting at which a quorum is present shall be the act of the Board of Directors. All references to actions of the Board of Directors herein and in the Certificate of Incorporation shall mean the affirmative vote of a majority of the Directors present at the time of the vote at a duly convened meeting at which a quorum is present.

#### SECTION 16. - ORGANIZATION.

At each meeting of the Board of Directors, the Chairperson, or, in his or her absence, the Vice-Chairperson shall preside. The Secretary, or, in his or her absence, a person chosen by a majority of the Directors present, shall keep complete and accurate minutes of the meeting.

#### SECTION 17. - ATTENDANCE AT MEETINGS.

Attendance at each meeting of the Board shall be recorded by the Secretary or the designated Director in the minutes thereof.

#### SECTION 18. - COMPENSATION.

The Directors shall serve in their capacity as Directors of the Tuxedo Farms Local Development Corporation without compensation. All Directors may be reimbursed for reasonable expenses incurred in the performance of corporate duties.

#### SECTION 19. - ANNUAL INDEPENDENT AUDIT.

The Audit Committee shall present to the Board upon its completion, the annual independent audit report performed in accordance with the requirements of the PAAA and generally accepted government auditing standards certified by a firm of independent public accountants. The certified independent public accounting firm that performs the annual independent audit shall timely report to the Audit Committee the following:

(i) the assets and liabilities, including the status of reserve, depreciation, special or other funds including the receipts and payments of such funds, of the Corporation as of the end of the fiscal year;

(ii) the principal changes in assets and liabilities, including trust funds, during said fiscal period;

(iii) the revenue or receipts of the Corporation, both unrestricted and restricted, to particular purposes during said fiscal period;

(iv) the expenses or disbursements of the Corporation for both general and restricted purposes, during said fiscal period; and

(v) a schedule of the bonds and notes of the Corporation outstanding during said fiscal period, including all refinancings, calls, refundings, defeasements, and interest rate exchange or other such agreements, and for any debt issued during the fiscal period, together with a statement of the amounts redeemed and incurred during such fiscal period as a part of a schedule of debt issuance that include the date of issuance, term, amount, interest rate, means of repayment and cost of issuance.

Furthermore, the certified independent public accounting firm that performs the annual independent audit shall timely report to the Audit Committee the following:

(i) all critical accounting policies and practices to be used;

(ii) all alternative treatments of financial information within generally accepted accounting principles that have been discussed with the management of the Corporation, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the certified independent public accounting firm;

(iii) other material written communications between the certified independent public accounting firm and the management of the Corporation, such as the management letter along with management's response or plan of corrective action, material corrections identified or schedule of unadjusted differences, where applicable.

## SECTION 20. - PROPERTY RIGHTS.

No Director of the Corporation shall, by reason of that position, have any rights to or interest in the property or assets of the Corporation.

## ARTICLE IV - COMMITTEES

### SECTION 1. - STANDING COMMITTEES.

(a) The Standing Committees of the Board shall be as described in subparagraph (b) below. Except as otherwise provided by these By-Laws, each Standing Committee shall consist of at least three (3) Directors. No Standing Committee shall have authority as to the following matters:

- (i) The submission to the Member of any action requiring its approval;
- (ii) The filling of vacancies on the Board of Directors or any committee;
- (iii) The amendment or repeal of these By-Laws or the adoption of new By-Laws; or
- (iv) The amendment or repeal of any resolution of the Board.

(b) Until changed by amendment of these By-Laws, the Corporation shall have the following Committees:

Audit Committee. There shall be an Audit Committee consisting entirely of Independent Directors, who shall be elected by a plurality of the votes cast by the Directors of the Corporation at each annual meeting of the Board and shall serve until the next annual meeting. To the extent practicable, the Directors serving on the Audit Committee should be familiar with corporate financial and accounting practices. The Audit Committee shall recommend to the Board the hiring of a certified independent accounting firm in compliance with the PAAA to conduct the annual independent audit, establish the compensation to be paid to the accounting firm and provide direct oversight of the performance of the annual independent audit.

Governance Committee. There shall be a Governance Committee consisting entirely of Independent Directors, who shall be elected by a plurality of the votes cast by the Directors of the Corporation at each annual meeting of the Directors and shall serve until the next annual meeting. The Governance Committee shall keep the Board informed of current best governance practices, review corporate governance trends, update the Corporation's corporate governance principles, and advise the Member and Directors on the skills and experience required of potential Directors.

Finance Committee. There shall be a Finance Committee consisting entirely of Independent Directors, who shall be elected by a plurality of the votes cast by the Directors of the Corporation at each annual meeting of the Board and shall serve until the next annual meeting. The Directors serving on the Finance Committee shall possess the necessary skills to understand the duties and functions of the committee. The Finance Committee shall have the responsibility to review proposals for the issuance of debt by the Corporation and its subsidiaries and make recommendations.

## SECTION 2. - SPECIAL COMMITTEES.

The Board of Directors, by resolution adopted by a majority of the entire Board of Directors, may create Special Committees, which shall have only the powers specifically delegated to them and shall in no case have powers which are not authorized for Standing Committees. The Directors serving on Special Committees shall be appointed by a plurality of the votes cast by the Directors of the Corporation.

## SECTION 3. - MEETINGS.

Meetings of committees shall be held at such times and places as shall be fixed by the respective committee chairpersons, or by vote of a majority of all of the Directors serving on the committee. Written notice shall be mailed (via regular mail or electronic mail) or delivered to all Directors serving on the committee prior to each meeting. Written minutes of the proceedings shall be kept at all committee meetings and shall be submitted at the next meeting of the Board. The President/Chief Executive Officer, or his or her designee, may attend all committee meetings, but does not possess any voting rights.

## SECTION 4. - QUORUM.

Unless otherwise provided by resolution of the Board of Directors, a majority of all of the Directors serving on a committee shall constitute a quorum for the transaction of business.

## SECTION 5. - MANNER OF ACTING.

Any corporate action to be taken by a committee shall mean such action to be taken at a meeting of the committee. Action by a committee shall be taken by majority vote at a meeting.

# **ARTICLE V - OFFICERS**

## SECTION 1. - PRESIDENT; VICE PRESIDENT; OTHER OFFICERS.

The Corporation may have a President/Chief Executive Officer, a Treasurer/Chief Financial Officer, and a Secretary and other officers and assistant officers as the Board of Directors may determine. The offices of President/Chief Executive Officer and Secretary shall not be held by the same person. The officers shall have such duties as may be prescribed by these By-Laws and the Board of Directors.

## SECTION 2. - TERMS OF OFFICERS.

The officers shall be appointed by the Directors at its annual meeting. Unless a shorter term is provided in the resolution of the Board appointing such officer, the term of office of each officer shall extend for one year after his or her appointment and until a successor is appointed and qualified. Officers shall be eligible to serve an unlimited number of consecutive terms.

## SECTION 3. - ADDITIONAL OFFICERS.

Additional officers may be appointed for such period, have such authority and perform such duties, either in an administrative or subordinate capacity, as the Board of Directors may from time to time determine. Such positions may include an Acting Chief Financial Officer and Acting Secretary, and any other position established by the Board of Directors from time to time.

## SECTION 4. - REMOVAL OF OFFICERS.

Any officer may be removed by majority vote of the Directors, with or without cause, at any time, provided there is a quorum of not less than a majority of the entire Board of Directors present at the meeting at which such action is taken.

## SECTION 5. - RESIGNATION.

Any officer may resign at any time by giving written notice to the Board of Directors, the President/Chief Executive Officer or the Secretary; provided, however, the President/Chief Executive Officer must provide written notice of his or her intent to resign to the Board of Directors and the Secretary must provide written notice of his or her intent to resign to the President/Chief Executive Officer or the Board of Directors. Any such resignation shall take effect at the time specified therein, or, if no time is specified, then on delivery. Acceptance of the resignation shall not be necessary to make it effective.

## SECTION 6. - VACANCIES.

A vacancy in any office of the Corporation shall be filled by the majority vote of the entire Board of Directors.

## SECTION 7. – PRESIDENT/CHIEF EXECUTIVE OFFICER.

The Board of Directors shall appoint the President/Chief Executive Officer by resolution, which resolution shall set the President/Chief Executive Officer's annual compensation. The President shall be the Chief Executive Officer of the Corporation and shall generally supervise all its affairs. The President/Chief Executive Officer shall perform such other duties as may be assigned to him or her from time to time by the Board of Directors.

## SECTION 8. - SECRETARY.

The Board of Directors shall appoint the Secretary by resolution, which resolution shall set the Secretary's annual compensation. It shall be the duty of the Secretary to supervise the preparation of minutes of all meetings of the Member and the Board of Directors and its committees, the giving of all notices required to be given by the Corporation, and the keeping of a current list of the Member of the Corporation, Directors and officers and their residence addresses. The Secretary shall be responsible for supervising the preparation and maintenance of the books and records of the Corporation. The Secretary shall attend to such correspondence as may be assigned to him or her and perform all the duties customarily incidental to that office and such other duties as may be assigned to him or her by the Board of Directors or the President/Chief Executive Officer. From time to time, the Board of Directors may employ or contract with an appointed Acting Secretary to whom the Board of Directors may designate certain duties of the Secretary and other such duties as may be assigned to him or her.

## SECTION 9. – TREASURER/CHIEF FINANCIAL OFFICER.

The Board of Directors shall appoint the Treasurer/ Chief Financial Officer by resolution, which resolution shall set the Treasurer/Chief Financial Officer's annual compensation. It shall be the duty of the Treasurer, as Chief Financial Officer of the Corporation, to oversee the financial affairs of the Corporation, report at each regular meeting of the Board of Directors, and participate in preparing the annual report of the Corporation and the filing of all required tax returns and other regulatory reports. The Treasurer shall be the Contracting Officer of the Agency for the disposition of real and personal property in accordance with the provisions of the PAAA. The Treasurer shall be the Freedom of Information Officer of the Corporation in accordance with the provisions of the New York State Freedom of Information Law. The Treasurer shall perform such other duties as may be assigned to him or her by the Board of Directors or the President/Chief Executive Officer. From time to time, the Board of Directors may employ or contract with an appointed Acting Treasurer to whom the Board of Directors may designate certain duties of the Treasurer and other such duties as may be assigned to him or her.

## SECTION 10. TOWN OF TUXEDO PERSONNEL; INDEPENDENT CONSULTANTS.

The Corporation may use the agents, employees and facilities of the Town or Independent Consultants. In such event, the Corporation will, by resolution, enter into a contract with the Town or the Independent Consultant, as the case may be, providing the terms upon which the Town or Independent Consultant will provide the use of its agents, employees and facilities to the Corporation and the compensation, if any, that the Corporation shall pay to the Town or the Independent Consultant for the use by the Corporation of the Town's or Independent Consultant's agents, employees and facilities.

## **ARTICLE VI - CONTRACTS, CHECKS, DRAFTS AND BANK**

### **ACCOUNTS SECTION 1. - EXECUTION OF CONTRACTS.**

The Board of Directors may on its own, except as these By-Laws otherwise provide, or may authorize any officer or officers, agent or agents, employee or employees, in the name of and on behalf of the Corporation, to enter into any contract or execute and deliver any instrument, and such authority may be general or confined to specific instances; but, unless so authorized by the Board of Directors, or expressly authorized by these By-Laws, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable pecuniarily in any amount for any purpose.

### **SECTION 2. - LOANS.**

No loans shall be contracted on behalf of the Corporation unless specifically authorized by the Board of Directors.

### **SECTION 3. - CHECKS, DRAFTS, ETC.**

All checks, drafts and other orders for the payment of money out of the funds of the Corporation, and all notes or other evidences of indebtedness of the Corporation, must be signed on behalf of the Corporation by two of following persons: the President/Chief Executive Officer, the Treasurer/Chief Financial Officer or the Chairman of the Board.

### **SECTION 4. - DEPOSITS.**

All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Treasurer may recommend and the Board of Directors approves.

### **SECTION 5. - INVESTMENTS.**

The Board of Directors may authorize the Corporation to contract with an investment advisor and custodian to manage its investments in accordance with an investment policy established by the Board.

## **ARTICLE VII - GENERAL**

### **SECTION 1. - SEAL.**

The corporate seal shall have inscribed thereon the name of the Corporation, the year of its organization, and the words "Corporate Seal, New York." The seal may be used by causing it or a facsimile thereof to be impressed or affixed or otherwise reproduced.

## SECTION 2. - BOOKS AND RECORDS.

There shall be kept by the Corporation (1) correct and complete books and records of account, (2) minutes and statements of written action by the Member, (3) minutes of the proceedings of the Board of Directors and its committees, (4) a current list of the Member, Directors and officers of the Corporation and their residence addresses, (5) a copy of the Certificate of Incorporation, and (6) a copy of these By-Laws. The foregoing items shall be subject to inspection and/or audit at any time by or at the direction of the Board of Directors.

## SECTION 3. - INDEMNIFICATION.

The Corporation shall indemnify each Member, each Director, each officer, and, to the extent authorized by the Board of Directors, each other person authorized to act for the Corporation or on its behalf, to the full extent to which indemnification is permitted under the Not-For-Profit Corporation Law.

## SECTION 4. - INTERESTED DIRECTORS AND OFFICERS.

The Board of Directors may adopt a policy regarding conflicts of interest which shall apply to all directors and officers.

## SECTION 5. - LOANS TO MEMBER AND OFFICERS.

The Corporation, either directly or indirectly, including through any subsidiary, is prohibited from extending or maintaining credit, arranging for the extension of credit or renewing any extension of credit, in the form of a personal loan to or for any Member, Director, or Officer, or to any other company, corporation, firm, association or other entity in which one or more of the Member, Directors or Officers of the Corporation are Member, director or officers or hold a substantial financial interest.

## **ARTICLE VIII - FISCAL YEAR**

The fiscal year of the Corporation shall commence on the first day of January of each calendar year and end on the last day of December.

## **ARTICLE IX - RULES OF ORDER AND BYLAW CHANGES**

### SECTION 1. - RULES OF ORDER.

Meetings of the Member and the Board of Directors and its committees shall be governed by Robert's Rules of Order, except in cases otherwise provided for by these By-Laws.

### SECTION 2. – BY-LAW CHANGES

These By-Laws may be amended, repealed or adopted by the Member of by a majority of the Directors of the Corporation.

**EXHIBIT E**

**Board Performance Evaluation**