

**VIRGIN ISLANDS PORT AUTHORITY**

**GOVERNING BOARD**

**BY-LAWS**

**ARTICLE I**

**PURPOSE OF BY-LAWS**

The purpose of these Bylaws is to provide for the orderly and efficient governance of the Virgin Islands Port Authority (hereinafter "Authority"), and to provide for the delegation of such of its powers and duties as the Board of Governors deems proper. The Authority's business shall be conducted and its powers and duties shall be exercised and performed in accordance with 29 V.I.C. sections 531 et seq., and in accordance with any rules and regulations adopted, or to be adopted from time to time, by the Authority, and any and all resolutions or other actions adopted or taken by the Board of Governors.

**ARTICLE II**

**PRINCIPAL PLACE OF BUSINESS**

The principal place of business of the authority shall be located on St. Thomas, Virgin Islands, and offices for that purpose may be located on St. Thomas, St. Croix and St. John, but its business may be conducted in any jurisdiction as may be determined by the Board from time to time.

**ARTICLE III**

**CORPORATE SEAL**

The official seal of the Authority shall be a design prepared by direction of the Executive Director and approved by the Board of Governors and shall bear the words "Virgin Islands Port Authority--Virgin Islands of the U.S.--Corporate Seal." Said Seal may be affixed by an impression, printing, stamping, or by any other method of reproduction. The Board of Governors and Executive Director may use, or authorize to be used, said design upon such

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stationary, printed matter, instruments, signs or other publications of the Authority as may be appropriate.

**ARTICLE IV**

**BOARD OF GOVERNORS**

The affairs and business of the Authority shall be managed by a Board of Governors composed of nine (9) persons as provided in 29 V.I.C. Section 541, and as amended from time to time. The members of the Board of Governors shall be known as Board Members.

**ARTICLE V**

**OFFICERS OF THE BOARD**

Section 1. NUMBER: The officers of the Board of Governors shall be three (3) in number, and shall consist of a Chairperson, a Vice-Chairperson and a Secretary.

Section 2. TERM OF OFFICE: The term of office of the Chairperson, Vice-Chairperson and the Secretary shall be one year, or until a successor has been elected, provided, of course, that no officer shall be permitted to serve in such capacity beyond the period of his or her term as a Board Member. A vacancy in the office of Chairperson, Vice-Chairperson or Secretary for any reason may be filled by the Board Members for the unexpired term.

Section 3. ELECTION: The Chairperson, Vice-Chairperson and Secretary shall be elected by a majority vote of the Board of Governors annually at the first regular meeting held immediately after the end of each calendar year. If the election of officers shall not be held at such meeting, such election shall be held at the next regular meeting.

**ARTICLE VI**

**DUTIES OF OFFICERS**

Section 1. CHAIRPERSON: The Chairperson shall preside at all meetings of the Board of Governors and shall have general supervision over the business and affairs of the Authority subject

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to the direction of the Board of Governors. The Chairperson shall cause to be called regular and special meetings in accordance with these By-Laws and shall prepare, or cause to be prepared, an agenda for each meeting, and shall present at each Annual Meeting a report of the condition of the Authority. The Chairperson shall have authority to establish ad hoc committees<sup>1</sup>, and shall sign, along with the Secretary or any other proper officer of the Authority authorized by the Board of Governors, any deeds, mortgages, bonds, contracts or other instruments which the Board of Governors has authorized to be executed, except in cases where the signing and execution thereof shall have been expressly delegated by the Board of Governors, or by these By-Laws, to some other officer or agent of the Authority. The Chairperson shall enforce these By-Laws and perform all the duties incident to the office of Chairperson, and which are required by law.

Section 2. VICE-CHAIRPERSON: The Vice-Chairperson shall perform the duties of the Chairperson in the event the office of the Chairperson is vacant, or in the event that the Chairperson is unable to perform the duties of the Chairperson by reason of illness, disability or absence. When so acting, the Vice-Chairperson shall have all the powers and be subject to all the responsibilities herein given to or imposed upon the Chairperson.

Section 3. SECRETARY: The Secretary shall see, or cause to be seen, that the books, reports and statements required by statute to be kept or made properly kept, made or filed according to law. The Secretary shall keep, or cause to be kept, the minutes of the meetings of the board of Governors in appropriate manner, which minutes shall be available to Board Members at all times. The Secretary shall cause to be given and served all notices of the Board of Governors. The Secretary, of his designee, shall be custodian of the records and the seal and affix the latter when required, and shall present to the Board of Governors all communications addressed to him or her officially by any person.

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<sup>1</sup>Amended August 20, 2014, to allow the Chairman, as well as the Board, to establish ad hoc committees.

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The Secretary shall attend to all correspondence and perform all the duties incident to the office of the Secretary, including, but not limited to, the attesting of all documents executed under the seal of the Authority and such other duties as from time to time may be assigned by the Chairperson or the Board of Governors. The Secretary shall perform the duties of the Chairperson in the event the offices of the Chairperson and Vice-Chairperson are vacant, or in the event that the Chairperson and Vice-Chairperson are unable to perform the duties of the Chairperson by reason of illness, disability or absence. When so acting, the Secretary shall have all the powers and be subject to all the responsibility herein given to or imposed upon the Chairperson.<sup>2</sup>

**ARTICLE VII**

**DUTIES OF THE BOARD OF GOVERNORS**

The Board of Governors shall be responsible for the control and general management of the affairs and business of the Authority. The Board of Governors shall in all cases act as a Board, regularly convened by a majority, and may adopt such rules and regulations for the conduct of its meetings and the management of the Authority, or the conduct of the Authority's business and management of its facilities, as it may deem proper and not inconsistent with these Bylaws, applicable federal and territorial laws, regulations or ordinances.

**ARTICLE VIII**

**OFFICERS OF THE AUTHORITY**

Section 1. OFFICERS: The officers of the Authority shall be the Executive Director, Assistant Executive Director, General Counsel, Director of Engineering and Chief Financial Officer<sup>3</sup>, and

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<sup>2</sup>Amended February 16, 200; added language of succession to cover situation where offices of both Chairperson and Vice-Chairperson are vacant or both are unavailable.

<sup>3</sup>Amended November 20, 2013; to eliminate non-existing position of Deputy Executive Director and replace Director of Administration

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such other officers as the Board of Governors shall from time to time designate.

Section 2. **POWERS:** The powers and duties of the officers of the Authority shall be as designated and set forth in an organizational plan prepared by the Executive Director and approved by the Board of Governors, and as amended from time to time.

Section 3. **ATTENDANCE:** All officers shall attend all board meetings, including special meetings, unless his or her absence has been previously excused by the Chairperson of the Board for valid reason.

Section 4. The Governing Board shall provide a written job performance evaluation of the Executive Director on an annual basis commencing the January 2008 regular board meeting.

**ARTICLE IX**

**MEETINGS OF THE BOARD OF GOVERNORS**

Regular meetings of the Board of Governors shall be held on the third Wednesday of each month at 10 A.M., in the Board Room, Virgin Islands Port Authority Administration Building, Cyril E. King Airport, St. Thomas, Virgin Islands, or at such other time and place as the Chairperson or a majority of the Board may direct from time to time. Special Meetings of the Board of Governors pursuant to notice as set forth hereinafter may be called by the Chairperson at any time and shall be called by the Chairperson or the Secretary upon written request of any three (3) Members of the Board of Governors. All board decisions made during any such special meeting shall have the same force and legal effect as made during any regular or annual meeting of the Board of Governors. The first meeting held in the beginning of the calendar year shall be the formal "Annual Meeting" of the Board of Governors.

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and Finance with the Chief Financial Officer position.

**ARTICLE X**

**NOTICES**

Section 1. The Secretary shall cause to be prepared and dispatched, as a courtesy to Board Members, Executive Director and other persons designated by the Board, written notice of all regular meetings, setting forth the time and place of the meeting.

Section 2. The Chairperson and Secretary shall jointly set the agenda through input from all Board Members and shall transmit said agenda to Board Members, Executive Director and other persons designated by the Board. Matters reported out of Committee shall also be included in the agenda. The Chairperson and Secretary shall make all efforts to have such notice and agenda transmitted at least three (3) working days before the date fixed for such meetings.

Section 3. Notices of Special Meetings, together with the agenda thereof, shall be sent in the same manner and time as notices of regular meetings, except that in cases of emergency, a Special Meeting may be called without three (3) days written notice or written agenda, provided that a good faith effort is made to contact each Board Member by telephone or other appropriate means, and further provided that only those matters reasonably related to the emergency for which the meeting is called may be addressed at such Special Meetings. In the event a Member is off-island and shall have advised the Authority, such notice shall be in the manner determined by the Secretary to be the most likely to reach said Member.

**ARTICLE XI**

**WAIVER OF NOTICE**

Whenever by statute or the provisions of these Bylaws the Board of Governors is limited to taking action only after notice to all Board Members, such notice may be waived in writing, either before or after the holding of the meeting, by the Members entitled to such notice. The attendance of a Member at such meeting shall

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constitute a waiver of notice of such meeting, except where a Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened and makes his or her objection known on the record.

**ARTICLE XII**

**QUORUM**

At any meeting of the Board of Governors, five (5) Members in attendance shall constitute a quorum for the purpose of conducting the business of the Authority and for all other purposes, and all actions shall be taken by vote of the majority of the Members present. In the event a quorum is not present, a lesser number may adjourn the meeting from time to time until a quorum is present.

**ARTICLE XIII**

**MEETINGS/HEARINGS OPEN TO PUBLIC**

Section 1. All meetings of the Board of Governors shall be held in accordance with the provisions of the Government in the Sunshine Act, 1 V.I.C. Section 251 et seq. Nothing contained herein shall prevent the Board of Governors from exercising its right, in accordance with 1 V.I.C. Section 251 et seq., to go into Executive Session, when appropriate, provided that all requirements under the foregoing Act have been met.

Section 2. Meetings of Committees of the Board of Governors are not open to the public. The Board of Governors may, however, as a matter of policy, open such meetings to the public, in which event each such meeting shall be open to the public unless and until said policy shall have been reversed.

Section 3. The Board of Governors may provide for public hearings as required by 29 V.I.C. Section 531 et sec., or for public meetings upon such matters as in its judgment may require public consideration. Public hearings and/or meetings shall be held before the Board of Governors, or before such hearing examiner

as shall be authorized to conduct same and report thereon to the Board of Governors.

#### **ARTICLE XIV**

##### **VOTING**

Section 1. At all meetings of the Board of Governors, each Member shall have one vote. Voting may be conducted by show of hands, by ballot, by voice vote, or as may be determined by a majority of Members present, a quorum having been had.

Section 2. Except as stated elsewhere herein, Members must be physically present at the meeting to vote.

Section 3. Notwithstanding any language herein to the contrary, in the event of an exigency or emergency the Executive Director, or his designee, may poll Members of the Board of Governors telephonically for the purpose of obtaining approval of action designed or intended to resolve the exigency or emergency, but only after ensuring that the following preconditions have been met:

- a. the Executive Director, or Acting Executive Director, reasonably concludes, in consultation with the Chairman, that an exigency or emergency exists, and
- b. the Executive Director, or Acting Executive Director, reasonably concludes that because of the nature of the exigency or emergency time constraints dictate that the call for a Special Meeting would be impractical or would otherwise jeopardize the mission of the Authority.

During the conduct of such polling, the Executive Director, or his designee, shall fully explain the nature of the exigency or emergency to each Member, and shall record the vote of each Member. Five (5) Members must vote affirmatively for any action undertaken by poll vote to be binding on the Authority.

Section 4. At the next regularly scheduled meeting of the Board of Governors, the matter requiring the conduct of a poll

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shall be placed on the agenda and the Board of Governors shall vote on ratification of actions taken as a result of such poll. The vote of each Member on the question of ratification shall be recorded. Members cannot change their vote during the ratification process contrary to the vote taken by poll.

**ARTICLE XV**

**PROCEDURE AT MEETINGS**

Meetings shall be conducted pursuant to Roberts Rules of Order (latest edition) unless otherwise directed by these Bylaws. Failure to comply with Roberts Rules of Order shall not affect the validity of any action taken unless the failure to comply therewith is specifically raised as a point of order or appeal by a Member. In that event the rules set forth in the latest edition of Roberts Rules of Order shall apply.

**ARTICLE XVI**

**PRESUMPTION OF ASSENT**

A Member who is present at a meeting of the Board of Governors at which action on any Authority matter is taken by general voice vote or show of hands shall be presumed to have assented to the action taken unless his dissent or abstention shall be entered in the minutes of the meeting or unless he shall file his written dissent or abstention to such action with the person acting as Secretary of the meeting before the adjournment thereof.

**ARTICLE XVII**

**FISCAL YEAR**

The fiscal year of the Authority shall begin on the first day of October and end on the thirtieth day of September in each year.

**ARTICLE XVIII**

**BUDGET**

Whenever reference in these Bylaws is made to a budget, it shall mean a budget approved or authorized by the Board of Governors. An annual budget shall be submitted by the Executive Director to the Board of Governors not later than ninety (90) days before the commencement of the next fiscal year. The budget shall be approved by the Board of Governors and may be modified from time to time by the Board of Governors as conditions warrant.

**ARTICLE XIX**

**COMMITTEES**

Section 1. NUMBER OF MEMBERS. Each Committee of the Board of Governors shall consist of not less than two (2)<sup>4</sup> nor more than five (5) Members.

Section 2. APPOINTMENT. Committee Members shall be voluntarily seated and shall serve perpetually in accordance with Section 1 of this Article.

Section 3. QUORUM. A quorum of any Committee of the Board of Governors shall consist of a number equal to the majority of its members. However, Section 3 of Article XIX does not apply to committees that consist of two (2) Members.<sup>5</sup>

Section 4. STANDING COMMITTEES. There shall be established from among the membership of the Board of Governors four (4)

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<sup>4</sup> Amended June 22, 2016 to reduce the quorum for committees to two (2) members instead of three (3) members when the membership of the Governing Board is less than seven (7) members.

<sup>5</sup> Amended June 22, 2016 to state that Section 3 of Article XIX, regarding quorum, is inapplicable to committees whose membership consist of two (2) members.

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Standing Committees: Finance Committee; Property Committee; Personnel Committee; and Projects and Operations Committee.<sup>6</sup>

Section 4(a) Finance Committee:<sup>7</sup>

I. Purpose.

The committee is responsible for providing financial oversight for the Authority. To include financial policies, goals, and budgets that support the mission, values, and strategic goals of the organization. The committee also reviews the organization's financial performance against its goals and proposes major transactions and programs to the board.

II. Role and Responsibilities. The Finance Committee shall:

1. Develop Annual Operating Budget with staff.
2. Approve budget within the Finance Committee and monitor adherence to budget.
3. Recommend policies that maintain and improve the financial health and integrity of the organization.
4. Review and recommend a long-range financial plan for the organization.
5. Review and recommend an annual operating budget and annual capital budget consistent with the long-range financial plan and financial policies.
6. Review and recommend capital expenditures and unbudgeted operating expenditures that exceed management's spending authority.

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<sup>6</sup>Amended December 21, 2016 to remove "Marketing Committee" and to add the purpose, role and responsibilities of the Property Committee, Personnel Committee and Projects and Operations Committee.

<sup>7</sup>Amended January 18, 2017 to add the purpose, role and responsibilities of the Finance Committee.

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7. Develop and review annually the investment policy.
8. Monitor the financial performance of the organization as a whole and business lines against approved budgets, long-term trends, and industry benchmarks.
9. Require and monitor corrective actions to bring the organization into compliance with its budget and other financial targets.
10. Be responsible for audit oversight.

III. Reports.

The committee will receive and review the following reports:

- Monthly, quarterly, and annual financial statements.
- Investment reports
- Profit and Loss

IV. Internal Controls.

- Create, approve and update (as necessary) policies that help to ensure the assets of the organization are protected.
- Ensure Financial Policies are documented and reviewed annually and updated as necessary.
- Ensure approved Financial Policies are being followed.

V. Annual Committee Goals.

The finance committee will establish goals each year specifying its principal work focus areas for the coming year.

- Developing a long-range capital plan integrated with the organization's strategic plan.
- Reviewing divisional profitability.

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- Reviewing the financial plan in relation to long-range strategic target.

Section 4(b) Property Committee:

I. Purpose.

The purpose of the property committee is to provide ongoing oversight of all matters of the Port Authority's real property.

II. Role and Responsibilities. The Committee shall:

1. Review, monitor and recommend to the Board staff's recommendations that enhance the Port Authority's property development and management including, but not limited to master plan development land and long-range land use, physical planning, use of space and development objectives and endowment wealth creation from long-term leasing to ensure alignment to the needs of the Port Authority.
2. Review and recommendations to the board staff's recommendations for lease and use of the Port Authority's properties and facilities.
3. Review staff's recommendations and make recommendations regarding the acquisition or disposal of real property, by purchase, sale, leases, transfer, etc. consistent with applicable procedures, legislation, etc.
4. Review staff's recommendations and make recommendations regarding acquisition or construction of new space, the major renovation of existing space, or the decommissioning or disposition of existing space.
5. Coordinate with other Board committees, i.e., Finance, Projects and Operations at least once annually to review

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planned capital and other major renovations/maintenance projects.

6. Review, from time to time as the committee deems appropriate, policies and practices in place relating to the management of the Port Authority's real property and recommend, as appropriate, changes in policy or practices arising from this review.

Section 4(c) Personnel Committee:

I. Purpose.

The purpose of the Personnel Committee is to examine, advise, recommend and provide ongoing oversight to the board with respect to Personnel matters.

II. Role and Responsibilities. The Committee shall:

1. Review and make recommendations to the full Board for the employment arrangements of the Executive Director to include, but not limited to: contract terms, annual remuneration, severance packages and short and long-term incentives.
2. Set annual performance goals and objectives for the Executive Director. Measure performance by annual review.
3. Review candidate applications, participate in interviews and make recommendations to the full Board, with respect to the appointments of the Executive Director, Assistant Executive Director, Officers and Directors of Departments.
4. Recommend revisions to the Board for approval as appropriate on the amendments of the personnel policies, the employee handbook and job descriptions for the Executive Director, Assistant Executive Director, Officers and Director of Departments.

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5. Review and recommend to the full Board compensation and fringe benefits, to include health insurance and pension plans.
6. Recommend to the full Board, for the purposes of ratification, negotiated Union Contracts for approval.
7. Review and recommend staffing structures and needs to the full board for approval.
8. Act on any other specific matter requested by the Board and/or the Executive Director.

Section 4(d) Projects and Operations Committee:

I. Purpose.

The purpose of the Projects and Operations Committee is to assist the Board in fulfilling its oversight responsibilities in respect of the cost control, project management processes, contractual arrangements, construction management and project execution of capital projects.

II. Roles and Responsibilities.

The Projects and Operations Committee is responsible for broadly reviewing and monitoring project management processes, capital costs, procurement practices, and project schedules in a more in-depth manner than time permits during regularly scheduled Board meetings.

III. Development/Construction.

- A. In respect of proposed projects, assist the Board in making a decision whether or not to proceed with the project.
- B. During the development stage of a project, oversee management's project development plans and provide advice to management as appropriate.

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- C. During the construction phase of a project, review progress with management, and provide regular construction progress updates to the Board.
- D. Review, at least annually, the planned construction and renovation projects, and the projected capital budget and other sources of funding, as well as projected expenditures and ongoing operating costs;
- E. Ensure that sources of financing for property acquisition, construction or renovation projects are clearly identified and assured and that the costs of maintenance and operations are taken into consideration before any property acquisition or project, or any amendment thereto, is approved by the Committee or recommended to the Board.
- F. Review and recommend to the Board principles, policies, guidelines and master plans relating to building and property matters;
- G. Review planning and design work related to proposed construction and renovation projects in order to ensure that the most accurate budget estimates are presented to the Committee for consideration and, authorize the Vice-Principal, Administration and Finance, to expend funds in support of project development with such expenditures to be reported to the Committee and included in the overall project budget presented to the Committee for approval in accordance with the Committee's authority established in the Policy on Contracts and Signing Authority;
- H. Review and forward for approval construction and renovation projects;

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- I. Review and approve any amendments to a construction or renovation project which has been previously approved by the Committee;
- IV. Environmental Health and Safety.
  - J. Review and monitor the environmental, safety and health policies and activities of the Company on behalf of the Board to ensure that the Company is in compliance with appropriate laws and legislation;
  - K. Encourage, assist, support and counsel management in developing short and long term policies and standards to ensure that the principles set out in the environmental, health and safety policies are being adhered to and achieved;
  - L. Periodically review environmental, health and safety response compliance issues and incidents to determine, on behalf of the Board, that the Company is taking all necessary action in respect of those matters and that the Company has been duly diligent in carrying out its responsibilities and activities in that regard;
  - M. Review results of operational environment, health and safety audits and management's activities to maintain appropriate internal and external environmental and safety audits;
  - N. Ensure that principle areas of environmental, health and safety risk and impacts are identified and that sufficient resources are allocated to address these;
  - O. Ensure that the Authority's directors are kept abreast of their duties and responsibilities related to the scope of this Committee;

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P. Address other safety issues as delegated to the Committee by the Board.

V. General.

Q. Review the terms of reference for the Committee annually to assess its effectiveness, and make recommendations to the Board as required; and

R. Perform any other duties or responsibilities expressly delegated to the Committee by the Board

S. Act on specific matters as recommended by the Executive Director.

Section 5. ADDITIONAL COMMITTEES. The Board of Governors may establish such additional committees, standing or ad hoc, from time to time as it deems appropriate, the membership, tenure and quorum of which shall be governed by this Article.

Section 6. DUTIES. Each committee shall have such functions and duties consistent with the laws of the Virgin Islands and these Bylaws, as are assigned to it from time to time by the Board of Governors. In no event shall a committee have the power to bind the Authority. All matters reviewed by a committee shall be passed on, with the committee's recommendations, to the full Board of Governors for action thereon and will not be unreasonably withheld.

Section 7. COMMITTEE HEAD. Each committee shall elect a Chairperson from among its members, who shall serve for the period of one year, or until a successor is elected.

Section 8. MEETINGS. Each standing committee shall meet, either in person or via tele-conferencing or video conferencing, at such date, place and time as the committee shall from time to time establish. Each ad hoc committee shall meet at such times and with such frequency as shall enable it to carry out its assigned duties, functions and tasks.

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Section 9. COMMITTEE REPORTS. Each standing committee, through its Chairperson, or a designee, shall submit a written report of its monthly meeting to the Board of Governors, which report shall be made a part of the agenda at the next regularly scheduled meeting of the Board of Governors immediately following the committee meeting. Each ad hoc committee shall submit its report(s) in writing to the Board of Governors as requested. A majority of the Members of the Board present and voting may vote to place an item currently in committee before the Board.<sup>8</sup>

**ARTICLE XX**

**AMENDMENT**

These Bylaws may be amended by resolution duly adopted by a majority of the membership of the Board of Governors at any meeting, regular or special, provided that notice of intention to present such resolution, which notice shall contain a copy of the proposed amendment(s), shall be given at least ten (10) days in advance of the meeting at which the motion to adopt such resolution is made. Such notice may be given by any Board Member or by any committee (or by the Secretary at the request of any Board Member or committee). Such notice may be given in writing, mailed, faxed or delivered to all Board Members, or in the alternative, such notice may be given orally at any meeting of the Board of Governors, in which event such notice shall be noted in the minutes, and a copy of the proposed amendment(s) made a part thereof, of the meeting at which it is given.

ADOPTED 12/20/95

AMENDED 12/19/07

AMENDED 08/20/14

AMENDED 06/22/16

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<sup>8</sup> Amended July 20, 2016 to remove the sentence "[o]nly those matters recommended by the Committee for board actions shall [sic] be considered by the Board."

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AMENDED 07/20/16

AMENDED 12/21/16

AMENDED 01/18/17