

# **Keyport BID, Inc.**

## **BYLAWS**

**Adopted: August 24, 2022**

**KBBC Board Resolution: 2022-08-01**

**Borough Council Resolution: 2022-195**

## **ARTICLE I** **The Corporation**

### **Section 1: Name**

Keyport Bid, Inc. doing business as “Keyport Bayfront Business Cooperative” (hereinafter, “KBBC”) is the name of the District Management Corporation for the Keyport Business Improvement District (“the District”) of the Borough of Keyport, County of Monmouth (the “Borough”) as designated by Section 21-7 of Borough Code.

### **Section 2: Office**

The principal office of the corporation shall be located at such location or locations in the Borough as the Board of Directors designate.

### **Section 3: Purpose**

As provided by Section 21-3 of the Borough Code, the KBBC shall strive to:

- (a) Foster the economic development and revitalization of the business community and strengthen its contributions to residents and property owners within the Borough of Keyport;
- (b) Establish a public/private partnership through a business improvement district and a district management corporation to allow all those who live, work or invest in the District to contribute to the improvement of the Borough and its business community;
- (c) Create and foster self-help programs to improve the local business environment;
- (d) Organize and coordinate community activities with other agencies, commissions, committees, organizations and other persons within the Borough;
- (e) Establish the procedures for the imposition of a special assessment and its collection by the Borough with the regular property tax payment or payment in lieu of taxes or otherwise, and for the transfer of all or a portion of these payments to the District Management Corporation to effectuate the purposes of Chapter XXI of the Revised General Ordinances of the Borough of Keyport and to exercise the powers given to it by this Chapter;
- (f) Provide for the administrative, planning and other services necessary to properly use the special assessment imposed and collected by the Borough to the maximum benefit of the business community and residents of the Borough of Keyport; and
- (g) Ensure that the business community has the resources required over and above the services regularly provided by the Borough to meet the unique needs of the District.

**Section 4:** Compliance with public laws

In accordance with Section 21-7 of the Borough Code, KBBC shall conduct its business in accordance with the Open Public Meeting Act, N.J.S.A. 10:4-6 *et seq.*, the Open Public Records Act, 47:1A-1 *et seq.*, and the Local Public Contract Law, N.J.S.A. 40A:11-1 *et seq.*

**Section 5:** Tax exempt status

The IRS has determined that the KBBC has a tax-exempt status under section 501(c)(3) of the Internal Revenue Code. Notwithstanding any other provision of these Bylaws, the Corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from Federal income taxation under Section 501(c)(3) of the Code, or the corresponding section(s) of any future United States Internal Revenue Law.

**Section 6:** Assets of the corporation

No part of the net income or assets of the Corporation shall inure to the benefit of, or shall be distributed to, any directors, officers or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services actually rendered and to make payments and distributions in furtherance of its exempt purpose pursuant to Section 501(c)(3) of the Code. The Corporation is irrevocably dedicated to and operated exclusively for non-profit purposes.

**Section 7:** Lobbying activities

No substantial part of the activities of the Corporation shall consist of the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office (including the publishing or distribution of statements).

**ARTICLE II**  
**Board of Directors**

**Section 1:** Directors

In accordance with Section 21-7 of the Borough Code, the KBBC shall have a Board of Directors consisting of thirteen voting Directors as follows:

- (a) The Mayor or Mayor's Designee;
- (b) One member of the Borough Council appointed by the Mayor with the approval of the Borough Council;
- (c) One member of the Recycling Committee, Environmental Commission or a Code Enforcement Official appointed by the Mayor with the approval of the Borough Council;
- (d) One resident or property owner not assessed under this chapter, who is not an employee or tenant of a business or property owner assessed under this

chapter, or an employee of the Borough appointed by the Mayor with the approval of the Borough Council;

- (e) Nine business property owners or business owners of assessed properties located within the District, who shall be known as the “elected Directors.” These business property owners or business owners of assessed properties shall not be employees or tenants of another Director on this Board.

## **Section 2: Terms of office**

The terms of office for the members of the Board of Directors are as follows:

- (a) The term of the Mayor shall be coterminous with his/her term in office. The term of the Mayor’s designee shall be for a period of one year and shall be at the pleasure of the Mayor.
- (b) The term of the Directors appointed pursuant to Section 1(b)-(d) shall be for a period of one year and shall be at the pleasure of the Mayor and Council.
- (c) The term of the nine elected Directors shall be three years except when the elected Director is replacing an elected Director who did not complete his or her three-year term whether by way of resignation, removal, or any other reason. In such cases, the elected member’s term will be determined in accordance with Article III, Section 2.
- (d) Vacancies on the Board of Directors shall be filled by appointment of the Mayor with the approval of the Council until the next election scheduled pursuant to these laws at which time a Director will be elected to serve for the balance of the unexpired term.

## **Section 3: Conflict of Interest**

No Director shall have any financial interest in any contract with the Corporation or in any firm which has a contract with the Corporation. This restriction applies so long as the individual is serving on the Board and for a period of five (5) years following separation from the Board.

## **Section 4: Compensation**

Directors shall not receive any compensation for their services.

# **ARTICLE III**

## **Voting**

### **Section 1: Elected Director Groupings**

- (a) Elected Directors will fall into one of three election groups (Group 1, Group 2 or Group 3) as defined below. The election groups are used to stagger the three-year terms and to assist with determining the terms of elected Directors.

- (b) Group 1 Directors are individuals who were either: (i) elected to serve one of the below three-year terms or (ii) elected to fill the position of a Director who was elected to serve, but did not complete one of the below three-year terms:

January 1, 2020-December 31, 2022  
January 1, 2023-December 31, 2025  
January 1, 2026-December 31, 2028  
January 1, 2029-December 31, 2031  
(and continuing at 3-year intervals)

- (c) Group 2 Directors are individuals who were either: (i) elected to serve one of the below three-year terms or (ii) elected to fill the position of Directors who were elected to serve, but did not complete one of the below three-year terms:

January 1, 2021-December 31, 2023  
January 1, 2024-December 31, 2026  
January 1, 2027-December 31, 2029  
January 1, 2030-December 31, 2032  
(and continuing at 3-year intervals)

- c) Group 3 Directors are individuals who were either: (i) elected to serve one of the below three-year terms or (ii) elected to fill the position of Directors who were elected to serve, but did not complete one of the below three-year terms:

January 1, 2022-December 23, 2024  
January 1, 2025-December 31, 2027  
January 1, 2028-December 31, 2030  
January 1, 2031-December 31, 2033  
(and continuing at 3-year intervals)

**Section 2:** Term length when replacing Directors of unfinished terms

Directors elected to fill positions held by persons who did not complete their three-year term (or held by persons designated to temporarily fill the unfinished term) shall take office immediately upon certification of election and serve to the end date of the replaced Director's Group designation.

**Section 3:** Eligibility

To be eligible to vote in a Board of Director election or to appear on the ballot for an elected Director position, the person must be either: (i) a business property owner in the Borough not delinquent on property taxes and utilities or (ii) a business owner in the Borough with a valid business certificate of occupancy.

**Section 4:** Nomination

Nominations shall be made at the September Board meeting and may come from the public or the Board. Self-nominations are permitted. Nominees shall provide the Section 3 eligibility documentation (proof that property taxes and utilities have been paid for business property owners; valid certificate of occupancy for business owners) to the Board at the

September Board meeting or to the entity supervising the election within two (2) business days following the September Board meeting. Nominees who fail to timely provide the required documentation shall not be eligible to appear on the ballot.

**Section 5: Election Supervision**

All elections shall be supervised by KBBC's legal counsel or an outside organization designated by the KBBC that has appropriate expertise in supervising similar elections.

**Section 6: Approval of Eligible Candidates**

The entity responsible for supervising the election shall review the eligibility documentation of nominees, determine the candidates eligible to appear on the ballot, and advise the KBBC of the eligible candidates within five (5) business days of the September Board meeting.

**Section 7: Election of Candidates**

- (a) Elections may be conducted via electronic or paper methods but in either case the voting shall be by secret ballot.
- (b) If the election is conducted electronically, the KBBC shall work with the entity responsible for supervising the election to develop a process for conducting the voting on or before October 20 and for certifying the election on or before November 10. Sections 7(c)-7(f) and 8(a) only apply to elections conducted via paper methods.
- (c) If the voting is conducted by paper ballot, a ballot containing the final slate of candidates for elected Director positions on the Board shall be sent to each business property owner and each business owner no later than October 1. The mailed envelope containing the ballot shall also include a postage prepaid return envelope addressed to the entity responsible for supervising the election.
- (d) The mailed ballot shall also contain written instructions that the return envelope must be postmarked on or before October 15 and arrive at the supervising entity address on or before October 22. Ballots that are either: (i) not postmarked on or before October 15 or (ii) do not arrive at the supervising entity address on or before October 22 shall be considered invalid and not counted.
- (e) The ballot shall also include written instructions that a business owner must provide a valid certificate of occupancy as of October 1 and that a business property owner must provide documentation showing that property taxes and utilities are paid up as of October 1. Ballots that are returned without documentation demonstrating eligibility shall be considered invalid and not counted.
- (f) The ballots returned to the entity supervising the election are to be held in confidence unopened until certification.

**Section 8: Certification of Election**

- (a) The entity supervising the election shall open and count the valid ballots no later than November 1.
- (b) The recipients of the highest number of votes shall be deemed the winners of the open Director positions on the ballot. If the open Director positions include positions having different term lengths, the winning recipients receiving the highest number of votes shall go to positions with the longest-term lengths and the winning recipients with the fewest number of votes shall go to the positions with the shortest-term lengths.
- (c) The entity supervising the election shall certify the results of the election to the Board of Directors no later than November 10.

**ARTICLE IV**  
**Removal of Board of Director Members**

**Section 1: Grounds for removal**

Directors of the Board of Directors may be removed from office on the following grounds:

- (a) Failure to attend at least seventy-five (75) percent of the regularly scheduled meetings of the Board during a twelve (12) month period or two (2) consecutive meetings without notice and explanation;
- (b) Failure to diligently perform assigned duties; or
- (c) Actions or conduct which discredits the reputation or encumbers the purposes, goals or operations of the Keyport Business Improvement District

**Section 2: Procedure for Removal**

- (a) The President of the Board or such other person as the Board shall designate shall notify the affected member in writing of the charges and the pending action and the regular or special meeting at which the action will be taken.
- (b) The member shall have the right to be present at this meeting and provide additional information and testimony on the member's behalf.
- (c) A vote for removal must be adopted by two-thirds of the Board of Directors in attendance at the meeting.

**ARTICLE V**  
**Board of Director Meetings**

**Section 1: Monthly meetings**

KBBC shall conduct regular monthly meetings. The agenda and all copies of all items to be discussed must be given to all Board Directors at least 48 hours prior to the meeting. This

can be accomplished by E-mail, Fax or by hand delivery. Items may be added to the agenda and discussed at the meeting with unanimous consent of those present.

**Section 2:** Post-meeting requirements

KBBC shall file a copy of its full monthly agenda packet (which includes but is not limited to, financial documents, resolutions, policy updates and any other documentation provided as part of the packet) with the Borough Clerk within ten (10) calendar days of the KBBC's last meeting. In addition, a copy of the monthly meeting minutes shall be submitted to the Borough Clerk within ten (10) calendar days of approval by the KBBC and shall be posted on the KBBC's website within (10) calendar days of such approval.

**Section 3:** Meeting procedures

The meetings shall be conducted in accordance with parliamentary authority: Robert's Rules of Order, Revised.

Except as otherwise prohibited by law, any and all Directors may participate in a meeting of the Board by, or conduct the meeting through, the use of any means of communication by which all Directors may simultaneously hear each other during the meeting. A Director participating in a meeting by this means shall be deemed to be present in person at the meeting. If any Director wishes to participate telephonically, they shall give reasonable advance notice so that telephonic equipment may be properly arranged for.

**Section 4:** Quorum

A majority of the entire Board shall constitute a quorum for the transaction of business. The act of the majority present at a meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number is required by law, the Certificate of Incorporation, or these Bylaws. Any action required to be authorized by a vote greater than a majority shall be rescinded or modified only by a like vote.

**Section 5:** Special meetings

Special Meetings may be called by the President or by a petition signed by at least four Board Directors. A minimum of 72-hour notice must be given to all board members. Notice of meetings must be in accordance with the Open Public Meetings Act.

**Section 6:** Participation of Board-elect Directors

To assist with the transition from year-to-year, Board-elect Directors are expected to attend the November and December Board Meetings to the extent they are available to do so. For the November and December Board Meetings, Board-elect members will have all the same rights and privileges as other Directors except that they will not be allowed to vote.

## **ARTICLE VI** **Officers**

### **Section 1:** Election of officers

At the first meeting of each new fiscal year, the KBBC shall elect a President, Vice President, Secretary and Treasurer. The term of office shall be one year and no person may hold an office for more than three consecutive terms.

### **Section 2:** President's Duties

The President's duties include: (a) preside at all meetings of the Board of Directors, at which he or she shall be present; (b) exercise such powers as are from time to time assigned to him or her by the Board of Directors; (c) oversee Board and executive committee meetings; (d) serve as ex-officio member of all committees; (e) make sure board resolutions are carried out and (f) call special meetings if necessary.

### **Section 3:** Vice President's Duties

The Vice President's duties include: (a) at the request of the President or in his or her absence, or during his or her inability to act, perform the duties and exercise the functions of the President, and when so acting shall have the powers of the President and (b) such other duties as may be assigned to him or her by the President.

### **Section 4:** Secretary's Duties

The Secretary's duties include: (a) cause minutes to be filed and maintained of the meetings of the Board of Directors in books provided for the purpose; (b) oversee that all notices are duly given in accordance with the provisions of the bylaws or as required by the Open Public Meetings Act; (c) serve as the custodian of the records of the corporation; and (d) perform all duties, as from time to time, may be assigned to him or to her by the Board of Directors or the President.

### **Section 5:** Treasurer's Duties

The Treasurer's duties include: (a) have charge of and be responsible for all funds, securities, receipts, and disbursements of the corporation; (b) deposit or cause to be deposited in the name of the corporation all monies in accordance with the most recent Board-adopted version of the Internal Control Policy; (c) whenever requested, but at a minimum at each meeting, provide an account of the financial condition of the corporation; (d) serve as financial officer of the organization; and (e) work with the President to ensure that appropriate financial reports are made available to the board on a timely basis.

### **Section 6:** Transition Duties for all elected Officers

In order to provide a smooth transition for newly elected Officers, the elected Officers for the prior fiscal year shall attend the first meeting of the next fiscal year and assist the newly elected Officers for the first month of the next fiscal year but in an advisory capacity only. These transition duties apply irrespective of whether or not the prior year elected Officer is a Board Member for the next fiscal year.

## **ARTICLE VII**

### **Committees**

The President of the Board shall establish and appoint such committees, committee chairpersons, and committee members as may be deemed necessary, with the advice and consent of a simple majority of the entire Board.

The Committee Chairperson shall prepare an agenda and keep minutes of the committee's meetings and submit reports of these meetings to the Board. For committee meetings, a simple majority of the members of the committee shall constitute a quorum.

## **ARTICLE VIII**

### **Procurement Guide and Internal Control Policy**

The Board of Directors shall comply with the Board's most recently adopted Procurement Guide and Internal Control Policy.

## **ARTICLE IX**

### **Personnel**

The Board of Directors may hire and/or retain an administrator, manager, staff and/or consultants as necessary to achieve the purposes of the KBBC. Compensation for any personnel will be determined by a vote of the full Board of Directors.

## **ARTICLE X**

### **Annual Reports**

#### **Section 1: Audited statement of operations**

On an annual basis, a full and correct statement of the affairs of the Corporation, including a balance sheet and statement of operations for the preceding fiscal year ("the annual report") shall be submitted at a regular meeting of the Board of Directors and filed immediately thereafter at the principal office of the corporation.

#### **Section 2: Borough filing**

Within thirty (30) days after the close of each fiscal year, the annual report shall be filed with the Mayor and Clerk of the Borough of Keyport.

#### **Section 3: Annual Audit**

The balance sheet and statement of operations for the preceding financial year shall be audited and certified by an independent Certified Public Accountant and filed with the Borough within four months after the close of the fiscal year of the corporation.

#### **Section 4: New Jersey filing**

Certified duplicate copy of the audit shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs, State of New Jersey, within

five days of the filing of the audit with the governing body of the municipality.

**ARTICLE XI**  
**Fiscal Year**

The fiscal year of the Corporation shall be the calendar year commencing January 1 and ending December 31, unless otherwise provided by resolution of the Board of Directors.

**ARTICLE XII**  
**Dissolution**

A vote to dissolve the Corporation will require the affirmative vote of a supermajority (at least 66%) of the entire Board. Upon the dissolution of the Corporation, all of the remaining assets of the Corporation shall be distributed to: 1) the Federal government, for a public purpose; 2) to a State or local government, for a public purpose; or 3) to one or more organizations created and operated for one or more exempt purposes, other than for religious purposes, within the meaning of Section 501(c)(3) of the Code, or the corresponding section of any future United States Internal Revenue Law.

Any such assets not so disposed of shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the Corporation is then located, to one or more organizations created and operated for one or more exempt purposes, other than for religious purposes, within the meaning of Section 501(c)(3) of the Code, or the corresponding section of any future United States Internal Revenue Law.

**ARTICLE XIII**  
**Indemnification**

Each director, officer, employee or corporate agent of KBBC shall be indemnified by the KBBC to the full extent permitted by N.J.S.A. 15A:3-4 or any other applicable provision of law.

**ARTICLE XIV**  
**Amendments to the Bylaws**

The Board shall have the power to amend or repeal these Bylaws. Any amendment to either the Bylaws or the Corporation's Certificate of Incorporation shall require the affirmative vote of a supermajority (at least 66%) of the entire Board, provided that a copy of the proposed amendment was physically or electronically mailed to each member of the Board at least five (5) days in advance of the vote, and provided further that no amendment may be made that would cause the Corporation to no longer qualify as an exempt organization described in Section 501(c)(3) of the Code, or the corresponding section(s) of any future United States Internal Revenue Law.

In accordance with Section 21-8(c)(1)(a), any amendments to the Bylaws shall be approved by the Mayor and Borough Council prior to implementation.

**ARTICLE XV**  
**Miscellaneous**

**Section 1: Severability**

If these Bylaws contain any provision found to be unlawful by a court of competent jurisdiction, the same shall be deemed to be of no effect and shall be deemed stricken from these Bylaws without impairing or affecting in any manner the validity, enforceability, or effect of the remaining provisions of these Bylaws.

**Section 2: Captions**

The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of these Bylaws or the intent of any provisions thereof.

**Section 3: Waiver**

No restrictions, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same.

**Section 4: Seal**

The Board of Directors shall provide a suitable seal, bearing the name of the Corporation, which shall be in the custody and charge of the Secretary.

**Section 5: Bonds**

The Board of Directors may require any officer, agent or employee of the Corporation to give a bond to the Corporation conditioned upon the faithful discharge of his or her duties with one or more sureties and in such amount as may be satisfactory to the Board of Directors.