

## CERTIFICATE OF INCORPORATION

OF

## OSWEGO COUNTY CIVIC FACILITIES CORPORATION

A Not-For-Profit Local Development Corporation  
Under Section 402 and 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 (the "*N-PCL*"), hereby certifies as follows:

**FIRST:** The name of the corporation shall be the "**Oswego County Civic Facilities 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 N-PCL and, as provided in Section 1411 of the N-PCL, will be a Type C Corporation, as defined in Section 201 of the N-PCL. The Corporation shall be a public instrumentality of, but separate and apart from, the County of Oswego (the "*County*").

**THIRD:** The purposes for which the Corporation is formed are the exclusively public purposes, within the meaning of Section 115 of the Internal Revenue Code of 1986, as amended (the "*Code*"), and charitable purposes, within the meaning of Section 501(c)(3) of the Code, of lessening the burdens of government and acting in the public interest including relieving and reducing unemployment, promoting and providing for additional and maximum employment and bettering and maintaining job opportunities in the County. To fulfill its purposes, the Corporation shall have all of the powers set forth in Section 1411 of the N-PCL including, without limitation, by means of engaging in the following activities:

(a) promoting community and economic development and the creation of jobs in the non-profit sectors for the residents of the County by developing and providing programs for not-for-profit entities to access low interest tax-exempt and non-tax-exempt financing for their eligible projects;

(b) issuing and selling one or more series or classes of bonds, notes and other obligations (the "*Obligations*") through public letting, private placement, or negotiated underwriting to finance activities referred to in subparagraph (a) above, on a secured or unsecured basis;

(c) engaging the services of one or more underwriters, placement agents, consultants, attorneys, financial advisors and other persons whose services may be appropriate or desirable in connection with the acquisition and financing referred to above;

(d) undertaking projects for the acquisition, construction, renovation, improvement and equipping of facilities within the County that are suitable for use by not-for-profit entities for the purpose of relieving and reducing unemployment, promoting and providing for additional and maximum employment and bettering and maintaining job opportunities in the County, and lessening the burdens of government and acting in the public interest;

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(e) in general, performing 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 activities referred to in paragraph THIRD above will achieve the lawful public purposes of lessening the burdens of government, the carrying out of such purposes and the exercise of the powers conferred on the Corporation being the performance of an essential governmental function, it being understood that the performance of such activities will assist the County in reducing unemployment and promoting additional job growth and economic development.

**FIFTH:** The operations of the Corporation will be conducted within the territory of the County. Notwithstanding any other provision of this Certificate of Incorporation, the by laws and any provision of law, so long as any obligations of the Corporation remain outstanding, the Corporation shall not do any of the following:

- (a) engage in any business or activity other than as set forth in paragraph THIRD;
- (b) without the consent of the County and the affirmative vote of two thirds of the members of the Board of Directors of the Corporation, (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 consent 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; or
- (c) without the consent of the County and the affirmative vote of two thirds of the members of the Board of Directors of the Corporation, 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.

When voting on whether the Corporation will take any action described in paragraph (b) above, each Director shall owe his or her primary fiduciary duty or other obligation to the Corporation (including, without limitation, the Corporation's creditors) and not to the members of the Corporation (except as may specifically be required by the N-PCL). Every Director of the Corporation shall be deemed to have consented to the foregoing by virtue of such Director's appointment as a Director of the Corporation.

**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 or accrue and, subject to the Corporation's responsibilities under the Obligations, be paid to the New York Job Development Authority.

(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 Code.

(c) if the Corporation accepts a mortgage loan or loans from the New York Job Development Authority, the Corporation shall dissolve in accordance with the provisions of paragraph (g) of Section 1411 of the N-PCL upon the repayment or other discharge in full by the Corporation or 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, 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) or Section 115 of the Code and the regulations promulgated thereunder.

(c) The Corporation shall not accept a mortgage loan or loans from the New York Job Development Authority.

**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 of the liabilities of the Corporation, distribute all of the remaining assets and property of the Corporation to the County. 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 N-PCL.

**NINTH:** The office of the Corporation shall be located in Oswego, New York. The Corporation at all times shall:

(a) upon request by the County, the Corporation shall make available any and all books and records of the Corporation for inspection by the Supervisor of the County and his or her staff; and

(b) submit to the County Legislature an annual financial report together with a report of the operations and accomplishments of the Corporation for such annual period; and

(c) the County Legislature, the New York State Authority Budget Office and the New York State Comptroller shall have the right to conduct an annual audit of the books and records of the Corporation.

**TENTH:** The sole member of the Corporation shall be the County acting through the County Legislature.

**ELEVENTH:** The Corporation shall be managed by a Board of Directors, who shall be comprised of those persons named in paragraph TWELFTH hereof (the "**Directors**"). Each of the Directors shall serve at the pleasure of the County, as provided in the by-laws of the Corporation.

**TWELFTH:** The Corporation shall consist of seven Directors. The Directors will be appointed by the Oswego County Legislature, two of whom shall be the Oswego County Treasurer and the Oswego County Administrator or their designees. The Directors shall initially include:

Carolyn A. Rush, 44 West Bridge Street, Oswego, NY 13126  
Gary T. Toth, 4120 State Route 69, Mexico, NY 13114  
H. Leonard Schick, 17E Edgewater Drive, Fulton, NY 13069  
Jonathan Daniels, 1 East 2<sup>nd</sup> Street, Oswego, New York 13126  
Donald H. Kunzwiler, 54 Patrick Circle, Fulton, New York 13069  
Oswego County Treasurer Hon. John W. Kruk, 46 East Bridge St., Oswego, NY 13126  
Oswego County Administrator Philip R. Church, 46 East Bridge St. Oswego, NY 13126

The Directors shall not receive compensation for services provided to or on behalf of the Corporation.

It is acknowledged that some of the Directors hold comparable positions with the County of Oswego Industrial Development Agency established by Chapter 234 of the 1973 Laws of the State of New York, as amended. By reason of the shared public purposes of the Corporation and the County of Oswego Industrial Development Agency, none of the Directors of the Corporation shall be deemed to have a conflict of interest solely due to such person's position with the County of Oswego Industrial Development Agency.

**THIRTEENTH:** The Corporation is a public body (as such term is defined in the Open Meetings Law) and, as such, each meeting of the Board of Directors of the Corporation shall be conducted in the manner prescribed by the Open Meetings Law.

**FOURTEENTH:** The Secretary of State of the State of New York 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 or her to the Oswego County Civic Facilities Corporation, 46 East Bridge Street, Oswego, New York 13126 Attn: President.

**FIFTEENTH:** The By-laws of the Corporation may be adopted, amended or repealed by a majority of the Directors of the Corporation upon 30 days notice to all of the Directors, provided, however that the Corporation shall not amend, alter, change or repeal any provision of the adopted By-laws without the consent of the County.

**SIXTEENTH:** The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in any manner now or hereafter provided herein or by statute, provided, however that the Corporation shall not amend, alter, change or repeal any provision of this Certificate of Incorporation without the consent of the County.

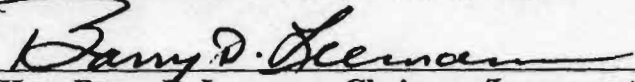
**SEVENTEENTH;** The powers of the Corporation set forth in paragraph THIRD hereof shall be subject to the following limitation: the bonds or notes and other obligations of the Corporation shall not be a debt of the State of New York or the County of Oswego, and neither the State of New York nor the County of Oswego shall be liable thereon, nor shall they

be payable out of any funds other than those revenues and receipts from the leasing or sale by the Corporation of its projects.

IN WITNESS WHEREOF, I, the undersigned incorporator, being all at least 18 years of age, have signed this certificate and have caused it to be acknowledged and hereby affirm it as true under penalty of perjury this 10<sup>th</sup> day of November, 2010 at Oswego, New York.

COUNTY OF OSWEGO, INCORPORATOR

By:

  
Hon. Barry D. Leemann, Chairman/Incorporator

Oswego County Legislature

46 East Bridge Street

Oswego, New York 13126



BY ORDER OF RESOLUTION 210 OF THE YEAR 2010 OF THE OSWEGO COUNTY LEGISLATURE.

CERTIFICATE OF RESERVATION

ENTITY NAME: OSWEGO COUNTY CIVIC FACILITIES CORPORATION

DOCUMENT TYPE: RESERVATION (NEW) (DOM. NFP)

FILED:09/23/2010 DURATION:11/23/2010 CASH#:100923000547 FILM #:100923000497

FILER:

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KEVIN C. CARACCIOLI  
CARACCIOLI & NELSON, PLLC  
120 EAST FIRST STREET, SUITE 300  
OSWEGO, NY 13126

ADDRESS FOR PROCESS:

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REGISTERED AGENT:

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\*\* SUBMIT RECEIPT WHEN FILING CERTIFICATE \*\*

APPLICANT NAME : KEVIN C. CARACCIOLI

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SERVICE COMPANY: NATIONWIDE INFORMATION SERVICES, INC. SERVICE CODE: 27

FEEs	35.00	PAYMENTS	35.00
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FILING	10.00	CASH	0.00
TAX	0.00	CHECK	0.00
CERT	0.00	CHARGE	0.00
COPIES	0.00	DRAWDOWN	35.00
HANDLING	25.00	OPAL	0.00
		REFUND	0.00

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OF

OSWEGO CIVIC FACILITIES CORPORATION

Under Section 402 and 1411 of the Not-for-Profit Corporation Law

Plan Copy  
 STATE OF NEW YORK  
 DEPARTMENT OF STATE  
 FILED NOV 15 2010  
 TAXS \_\_\_\_\_  
 BY:                       
 C. Mitchell

FILER:

Richard C. Mitchell, County Attorney  
 County of Oswego  
 Legislative Office Building  
 46 East Bridge Street  
 Oswego, NY 13120-2137

Cust. Ref. # 38643

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