WHEREAS, by passing Part WW of Chapter 56 of the Laws of 2022 (“Chapter 56”), the New York State Legislature amended Section 103 of the Open Meetings Law; and

WHEREAS, Part WW of Chapter 56 adds Section 103-a of the Open Meetings Law, permitting the New York State Board of Elections to authorize its commissioners to attend meetings by videoconferencing from non-public locations under extraordinary circumstances; and

WHEREAS, Section 103-a(2)(a) requires the New York State Board of Elections to adopt a resolution following a public hearing authorizing the limited use of videoconferencing under such circumstances; and

WHEREAS, Section 103-a(2) allows for hybrid meetings by requiring “that a minimum number of commissioners are present to fulfill the public body’s quorum requirement in the same physical location or locations where the public can attend”; and

WHEREAS, Section 103-a(2)(c) requires that commissioners be physically present at any such meeting “unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances . . . including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting”; and

WHEREAS, in accordance with Section 103-a(2)(d), any commissioners attending by videoconference must, except during executive session, be “heard, seen and identified, while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon”; and

WHEREAS, Section 103-a(2)(g) requires that any meeting where a commissioner attends by videoconference be recorded, posted to the New York State Board of Elections webpage within five business days, and transcribed upon request; and

WHEREAS, Section 103-a(2)(h) requires that members of the public be permitted to attend and participate, if authorized, in any meeting by videoconference when a member attends by videoconference.

BE IT RESOLVED, that the New York State Board of Elections authorizes its commissioners who experience an extraordinary circumstance, as described above, as further defined by the procedures attached herein, and, as factors or events arise which, in the exercise of the commissioner’s discretion, preclude that commissioner’s physical attendance at such meeting, to attend meetings by videoconference: (i) as long as a quorum of the commissioners
attend in-person at one or more locations open to the public; (ii) as long as the commissioner can be seen, heard, and identified while the open portion of the meeting is being conducted; and (iii) as otherwise permitted under Chapter 56 of the Laws of 2022; and be it further

RESOLVED, that the New York State Board of Elections adopts the attached herein with respect to the use of videoconferencing by the New York State Board of Elections’ commissioners in compliance with Part WW of Chapter 56 of the Laws of 2022.