

BOARD OF DIRECTORS DUTIES AND RESPONSIBILITIES

Purpose:

The purpose of this Statement is to set forth the standards of conduct and responsibilities of the City of Newburgh Industrial Development Agency (the “Agency”) Board of Directors in furtherance of efficient operations so as to promote and assist economic development in the City of Newburgh and fulfill the purposes of the Agency as set forth in the General Municipal Law.

Role and Expectations:

It is the responsibility of Board members to execute direct oversight of the Agency’s Executive Director and other senior management in the effective and ethical management of the Agency. Board members are expected to understand, review and monitor the implementation of fundamental financial and management controls and operational decisions of the Agency. In executing their role, Board members shall adhere to the fiduciary duties of care and loyalty which they owe to the Agency.

- a. Duty of Care. A Board member must perform his or her duties, including those duties as a member of any committee of the Board upon which he or she may serve, in good faith and with that degree of care which an ordinarily prudent person in a like position would use under similar circumstances.
- b. Duty of Loyalty. Board members are bound by their duty of undivided and unqualified loyalty to the Agency, a duty which encompasses good faith efforts to insure that their personal profit is not at the expense of the Agency.
- c. Adopt policies and procedures as required by the Public Authorities Accountability Act of 2005 and 2009.
- d. Board members may exercise and fulfill these duties by:
 1. Understanding the Agency’s role in the economic development community;
 2. Regularly attending and constructively participating in meetings of the Board and related committees;
 3. Reviewing and understanding the materials provided in advance of meetings and any other materials provided to the Board from time to time;
 4. Informing oneself prior to making decisions by utilizing material information reasonably available; and
 5. Remaining reasonably accessible to the senior management on specific issues which may not require the attention of the entire Board but where an individual Board member’s insights may be helpful.
 6. Review and monitor the implementation of financial and management controls.
 7. Members are required to sign the Fiduciary Duty Acknowledgement.

Board Member Conduct:

- a. Conflicts of Interest. Board members are required to conduct themselves in compliance with the conflict of interest requirements imposed upon members of industrial development

agencies under Article 18 A of the General Municipal Law and the requirements of the Agency's Code of Ethics.

- b. Personal Loans. Board members must refrain from accepting or approving any personal loan from the Agency.
- c. Decorum. Board members must not engage in conduct or make any public statement likely to prejudice the functions of the Agency or harm, defame or otherwise bring discredit upon the Agency.
- d. Separation of Board and Management. No Board member may serve as the Agency's Executive Director or hold any other equivalent position while also serving as a Board member.
- e. A Board member or Board nominee :
 - "is not, and in the past two years has not been, employed by the public authority or an affiliate in an executive capacity;
 - is not, and in the past two years has not been, employed by an entity that received remuneration valued at more than fifteen thousand dollars for goods and services provided to the public authority or received any other form of financial assistance valued at more than fifteen thousand dollars from the public authority;
 - is not a relative of an executive officer or employee in an executive position of the public authority or an affiliate; and is not, and in the past two 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, and rate determinations or any other similar actions of the public authority or an affiliate.

Board Committees and Composition:

The Board of Directors is required to establish an Audit Committee, a Governance Committee and a Finance Committee (for authorities that issue debt/bonds). Committee appointments are based on a board member's skills, profession, and/or career experiences. The committee structure suggests that Board appointees have experience or skills related to the tasks of each committee. Article 18A of the NYS General Municipal Law and proposed laws suggests that candidates for the board include representative government, law, environment, labor, school districts and business.

- Governance Committee is to examine ethical and conflict of interest issues, perform board self-evaluations, and recommend changes to by-laws to the full Board.
- Finance Committee is to review proposals for the issuance of debt by the authority and make recommendations to the Board of Directors. It is suggested that the Financial Committee seek a person (membership on the Board is not a requirement) with experience in bond financing.
- Audit Committee is to manage the procurement of the auditors, supervise the audit process and make recommendations to Board of Directors.

Required Filings:

Board members are required by New York Public Authorities Law Section 2825 to file annual financial disclosure statements with the Orange County Board of Ethics. The completed financial disclosure form covering the immediately preceding calendar year must be submitted to the Orange County Board of Ethics on or before May 15 of each year.

Training:

- a. All Board members appointed on or after January 13, 2006 must participate in State-approved training within one year (or sooner) of appointment.
- b. All Board members must participate in 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 public authorities and to adhere to the highest standards of responsible governance.
- c. All new appointees are required to participate in a staff presentation of the provisions of Article 18A of the NYS General Municipal Law.

Authorities Budget Office

Policy Guidance

No. 10-01 Date Issued: March 1, 2010

Supersedes: New

Subject: Acknowledgement of Fiduciary Duty

Statutory Citation: Public Authorities Law Section 2824(1)(h)

Provisions: Section 6(i) of Public Authorities Law, as amended by Chapter 506 of the Laws of 2009 (“The 2009 Public Authorities Reform Act” or “PARA”), requires the Authorities Budget Office (ABO) to “develop and issue” a written acknowledgement that all board members must execute as part of their duties and responsibilities under Section 2824 of Public Authorities Law. By signing this acknowledgement a board member is stating “that he or she understands his or her role and fiduciary responsibilities” as well as his or her “duty of loyalty and care to the organization and commitment to the authority’s mission and the public interest.”

Pursuant to PARA, every board member of a Public Authority is required to sign an acknowledgement of fiduciary duty at the time he or she takes the oath of office. The effectiveness of the acknowledgement will be deemed applicable throughout the duration of such board member's term and/or for as long as such director continues to serve in such capacity. Board members appointed to their positions prior to the effectiveness of PARA and the implementation of this new requirement are required to execute an acknowledgement by May 1, 2010.

Authorities Budget Office Policy Guidance: The primary responsibility of a board member is to understand the mission and public purpose of the Authority and to act in the best interests of the Authority, its mission, and the public. The intent of this written acknowledgement is to re-affirm the importance of this duty to board members.

The ABO is directing all state and local public authorities to use the attached acknowledgement form to satisfy this statutory requirement. Public authorities are to maintain signed copies of the acknowledgement throughout the official term of each active board member. State and local authorities will also be expected to certify as part of the Annual Report submission that these statements were executed in accordance with Section 2824 of Public Authorities Law. The failure to execute this acknowledgment will be considered a failure to comply with the requirements of Public Authorities Law. The failure to act in accordance with the principles stated in this acknowledgment can be considered a breach of fiduciary duty and could result in a recommendation that the board member be sanctioned.

A board member is to sign a new acknowledgement document at the start of each new term to which the board member is appointed.

Acknowledgement of Fiduciary Duties and Responsibilities

As a member of the Authority's board of directors, I understand that I have a fiduciary obligation to perform my duties and responsibilities to the best of my abilities, in good faith and with proper diligence and care, consistent with the enabling statute, mission, and by-laws of the Authority and the laws of New York State. The requirements set forth in this acknowledgement are based on the provisions of New York State law, including but not limited to the Public Authorities Reform Act of 2009, Public Officers Law, and General Municipal Law. As a member of the board of directors:

I. Mission Statement

I have read and understand the mission of the Authority; and the mission is designed to achieve a public purpose on behalf of the State of New York. I further understand that my fiduciary duty to this Authority is derived from and governed by its mission.

I agree that I have an obligation to become knowledgeable about the mission, purpose, functions, responsibilities, and statutory duties of the Authority and, when I believe it necessary, to make reasonable inquiry of management and others with knowledge and expertise so as to inform my decisions.

II. Deliberation

I understand that my obligation is to act in the best interests of the Authority and the People of the State of New York whom the Authority serves.

I agree that I will exercise independent judgment on all matters before the board.

I understand that any interested party may comment on any matter or proposed resolution that comes before the board of directors consistent with the laws governing procurement policy and practice, be it the general public, an affected party, a party potentially impacted by such matter or an elected or appointed public official. However, I understand that the ultimate decision is mine and will be consistent with the mission of the Authority and my fiduciary duties as a member of the Authority's board of directors.

I will participate in training sessions, attend board and committee meetings, and engage fully in the board's and committee's decision-making process.

III. Confidentiality

I agree that I will not divulge confidential discussions and confidential matters that come before the board for consideration or action.

IV. Conflict of Interest

I agree to disclose to the board any conflicts, or the appearance of a conflict, of a personal, financial, ethical, or professional nature that could inhibit me from performing my duties in good faith and with due diligence and care.

I do not have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of my duties in the public interest.

Signature: _____

Print Name: _____

Authority Name: City of Newburgh Industrial Development Agency

Date: _____, 201