



83 Broadway, 3rd floor
Newburgh, NY 12550
TEL: (845) 569-7369

Governance Committee Meeting

AGENDA

December 12, 2025

9:45 am

83 Broadway 2nd floor, Law Library, Newburgh, NY

The Governance Committee will be meet to review the policies below. These policies need to be reviewed and have full board approval to comply with state mandates and reporting requirements.

- Mission Statement
- Agency By-laws
- Anti-Harassment Policy
- Board of Directors' Duties and Responsibilities
- Code of Ethics
- Conflict of Interest
- FOIL Policy
- Local Labor Policy
- Whistleblower Protection Policy
- UTEP



Mission Statement
January 1 to December 31, 2025

Mission Statement:

The mission of the City of Newburgh Industrial Development Agency is to help attract and contribute to: Newburgh's job opportunities, a diverse and net positive tax base to provide long term economic prosperity and sustainability, and advance the general welfare and standard of living for the city and its residents through the promotion, development, encouragement and assistance of commercial, technology, tourism initiatives, recreational facilities, warehousing, manufacturing and industrial facilities, utilizing Green practices and adaptive re-use where available.

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

2025 ANTI-HARASSMENT POLICY

Introduction

The City of Newburgh Industrial Development Agency (the “Agency”) is committed to maintaining a workplace free from harassment of any kind, including harassment based on disability, sex, race, color, religion, pregnancy, national origin or ancestry, creed, age, sexual orientation, military status, domestic violence victim status, gender identity, gender expression, genetic information, criminal history, or any other status protected by law. To be clear, this policy prohibits sexual harassment as sexual harassment is a form of workplace discrimination.

All employees are required to ensure the workplace is free from harassment and discrimination of any kind. This policy is one component of the Agency’s commitment to a discrimination-free work environment. Harassment and discrimination are against the law and all employees have a legal right to a workplace free from those constructs. To accomplish this goal, employees are urged to report harassment and discrimination by filing a complaint internally with the Agency. Employees can also file a complaint with the governmental agencies tasked with enforcement of the applicable provisions or in court under federal, state or local anti-discrimination laws.

Policy

The Agency’s policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with the Company. In the remainder of this document, the term “employee” refers to this collective group.

Harassment and/or discrimination will not be tolerated. Any individual covered by this policy who engages in harassment, discrimination, or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination). It is important to understand that an action or comment that doesn’t violate an anti-discrimination/harassment law could still violate this policy.

No person covered by this policy shall be subject to adverse action because the employee reports an incident of harassment or discrimination in good faith, provides information, or otherwise assists in any investigation of a harassment/discrimination complaint. The Agency will not tolerate such retaliation against anyone who, in good faith, reports or provides information about

suspected harassment or discrimination. Any employee of the Company who retaliates against anyone involved in a harassment or discrimination investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees¹ working in the workplace who believe they have been subject to such retaliation should inform the Executive Director or any supervisor or manager. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.

Harassment is offensive, is a violation of our policies, is unlawful, and may subject the Agency to liability for harm to targets of harassment. Harassers may also be individually subject to liability. Employees of every level who engage in harassment, including managers and supervisors who engage in harassment or who allow such behavior to continue, will be penalized for such misconduct.

The Agency will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about discrimination or harassment, or otherwise knows of possible harassment occurring. The Agency will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever harassment or discrimination is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of harassment.

All employees are encouraged to report any harassment/discrimination or behaviors that violate this policy. THE AGENCY will provide all employees a complaint form for employees to report harassment and file complaints.

Managers and supervisors are required to report any complaint that they receive (regardless of whether it's in writing or made verbally), or any harassment that they observe or become aware of, to Chair or any Vice Chair.

This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy shall be provided to all employees and will be posted prominently in all work locations, to the extent practicable, and shall be provided to employees upon hiring.

What Is "Sexual Harassment?"

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of self-

¹ A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

identified or perceived sexual orientation, sex, gender expression, gender identity, and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment;
or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, communications, signs, postings, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are reasonably offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance. Sexual harassment can occur between members of the same or opposing sex or gender.

Sexual harassment also occurs when a person in authority tries to trade job-related benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should report the potentially harassing conduct so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of Sexual Harassment

The following describes some, but not all, of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as, but not limited to:
 - Touching, pinching, patting, kissing, hugging, grabbing, inappropriately brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as, but not limited to:

- Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
- Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping, which occurs when an individual's conduct or personality traits are considered inappropriate by others simply because they may not conform to other people's ideas, assumptions, stereotypes, or perceptions about how individuals of a particular sex or gender should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as, but not limited to:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as, but not limited to:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying based on protected status, yelling, name-calling.

Who Can Be A Target Of Sexual Harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where Can Sexual Harassment Occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

Retaliation

Retaliation occurs when an individual, because of another's engagement in a protected activity, causes an adverse action to occur against the other individual due to said protected activity. Unlawful retaliation can also be any action that could discourage a worker from coming forward to make or support a harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Retaliation is unlawful under federal, state, and (where applicable) local law. For example, the New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- made a good faith complaint of harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving harassment under the Human Rights Law or other anti-discrimination law;
- opposed harassment by making a verbal or informal good faith complaint to management, or by simply informing a supervisor or manager of harassment;
- reported in good faith that another employee has been harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not rise to the level of a violation of law or this policy, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, this anti-retaliation provision is not intended to protect persons making intentionally false charges of harassment.

Reporting Harassment

Preventing harassment is everyone's responsibility. THE AGENCY cannot prevent or remedy harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute harassment is encouraged to report such behavior to the Chair or any Vice Chair or any supervisor or manager. Anyone who witnesses or becomes aware of potential instances of harassment should report such behavior to the Executive Director or any supervisor or manager.

Reports of harassment may be made verbally or in writing. A form for submission of a written complaint can be obtained from the Chair or Vice Chair or any supervisor or manager, and all employees are encouraged to use this complaint form. Employees who are reporting sexual

harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf. An individual making a verbal complaint may be asked to complete a complaint form. In the event that an employee requests to not fill out the applicable form, the form may be completed on their behalf based on the information provided.

Other Forums Available to Address Sexual Harassment

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections And External Remedies With Respect To Sexual Harassment.

Supervisory Responsibilities

All supervisors and managers who receive a complaint or information about suspected harassment either in writing or verbally, observe what may be harassing behavior or for any reason suspect that harassment is occurring, are required to report such suspected sexual harassment to Chair or any Vice Chair.

In addition to being subject to discipline if they engaged in harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report possible harassment, discrimination, retaliation, or otherwise knowingly allowing harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

Complaint and Investigation of Harassment

All complaints or information about possible harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible. Only those authorized by the Agency will perform investigations into possible harassment or discrimination. Supervisors and managers are not to perform investigations under this policy, including any "self-help" actions, unless expressly authorized to do so.

An investigation of any complaint, information, or knowledge of possible harassment will be reasonably prompt and thorough, commenced immediately, and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected harassment. The Agency will not tolerate retaliation against employees who file good faith complaints, support another's complaint or participate in an investigation conducted pursuant to this policy.

While the process may vary from case to case, the Agency will, typically, engage in the following steps:

- Upon receipt of complaint, the Agency, or its designee, will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the alleged harasser to refrain from communications with the complainant), as appropriate. If the complaint is verbal, the Agency will encourage the individual to complete the “Complaint Form” in writing. If the complainant refuses, the Agency may prepare a Complaint Form based on the verbal reporting.
- If documents, emails or phone records are relevant to the investigation, the Agency will take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses.
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported the possible harassment and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document. Specific findings will not be provided to these individuals, but the determination as to whether the complaint was founded or unfounded (in whole or in part) will be provided. Additional details may also be provided thereafter if confidentiality can be maintained.
- Inform the individual who reported the possible harassment of their right to file a complaint or charge externally.

Legal Protections and External Remedies with Respect to Sexual Harassment

Sexual harassment is not only prohibited by the Agency but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at the Agency, employees may also choose to pursue legal remedies with the governmental entities listed below. While a private attorney is not required to file a complaint with a governmental agency, an employee may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 *et seq.*, applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed with the Division of Human Rights (DHR). A legal action alleging a violation of said provision may also be filed in a court of competent jurisdiction.

Complaints with DHR may be filed any time within three-years (as of 2024) of the harassment. In determining whether to file a complaint with a governmental agency or to file a legal action in court, employees should consult with an attorney.

Complaining internally to the Agency does not extend your time to file with DHR or in court. The three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If harassment is found after a hearing, DHR has the power to award certain relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be filled out. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000-e *et seq.*). An individual can file a complaint with the EEOC anytime within 300 days from the last date of the alleged harassment if there is a corresponding State Law, otherwise the individual has 180 days to file with the EEOC. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department if you believe it is necessary to do so.

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

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 ensure 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 the Public Authorities Reform Act of 2009.
- d. Board members may exercise and fulfill these duties by:
 1. Understanding the Agency’s role in the economic development community;
 2. Regularly attend and constructively participate 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;
 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 18A 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 representatives from 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 agency and make recommendations to the Board of Directors. It is suggested that the Finance 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 and 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. They will do so with the City of Newburgh Clerk's Office. 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 continued 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 Agency'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 Agency 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 Agency; 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 Agency 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 Agency 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 Agency and the People of the State of New York whom the Agency 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 Agency and my fiduciary duties as a member of the Agency'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: _____ of _____, 20____



83 Broadway, Newburgh, NY 12550

BY-LAWS

OF

THE CITY OF NEWBURGH

INDUSTRIAL DEVELOPMENT AGENCY

Re-Adopted at the December 2024
IDA Board Meeting

Table of Contents

ARTICLE I	THE AGENCY	1
Section 1.	Name	1
Section 2.	Seal.....	1
Section 3.	Offices of the IDA	1
ARTICLE II	BOARD.....	1
Section 1.	Members	1
Section 2.	Power of the Board and Qualifications of Members	1
Section 3.	Organization.....	2
Section 5.	Fiduciary Responsibilities.....	2
Section 6.	Separation of Board and Management.....	2
Section 7.	Board Member Independence and Financial Disclosure	2
Section 8.	Resignations and Removal of Members	3
ARTICLE III	MEETINGS	3
Section 1.	Annual Meeting	4
Section 2.	Regular Meetings	4
Section 3.	Special Meetings	4
Section 4.	Open Meetings Law	4
Section 5.	Notice of Meetings.....	4
Section 6.	Quorum	4
Section 7.	Procedure at Meetings.....	5
Section 8.	Code of Conduct and Attendance Policy	5
Section 9.	Action by Telephone.....	7
ARTICLE IV	OFFICERS	7
Section 1.	Officers	7
Section 2.	Chair.....	7
Section 3.	Vice Chair	8
Section 4.	Secretary	8
Section 5.	Assistant Secretary	8
Section 7.	Assistant Treasurer.....	8
Section 8.	Additional Duties	8
Section 10.	Vacancies	9
ARTICLE V	EXECUTIVE OFFICERS AND OTHER PERSONNEL	9
Section 1.	Executive Director	9
Section 2.	Duties and Responsibilities of the Executive Director	9
Section 3.	Comptroller	10
Section 4.	Duties and Responsibilities of the Comptroller	10
Section 5.	Compliance Officer.....	10
Section 6.	Duties and Responsibilities of the Recording Secretary	10
Section 7.	Additional Personnel.....	11

Section 8.	Municipal Personnel	11
ARTICLE VI	COMMITTEES.....	12
Section 1.	Standing Committees	12
Section 2.	Governance Committee	12
Section 3.	Finance/Audit Committee.....	12
ARTICLE VII	CONTRACTS, CHECKS, DRAFTS AND BANK ACCOUNTS	14
Section 1.	Execution of Contracts.....	14
Section 2.	Loans.....	14
Section 3.	Checks, Drafts, Etc.	14
Section 4.	Deposits.....	14
ARTICLE VIII	MISCELLANEOUS	14
Section 1.	Ethics Policy	14
Section 2.	Whistleblower Protection and Code of Ethics Policy.....	15
Section 3.	Procurement Policy.....	15
Section 4.	Books and Records	15
Section 5.	Annual Report.....	15
Section 6.	Independent Audit Report.....	16
Section 7.	Property Disposition	17
Section 8.	Investment Guidelines	17
Section 9.	Transparency and Public Communications	17
Section 11.	Compliance with General Municipal Law, Article 18A and the Public Authorities Accountability Act, 2005 and 2009	18
Section 12.	Amendments	18

ARTICLE I

THE AGENCY

Section 1. Name

The name of the Agency shall be “City of Newburgh Industrial Development Agency,” and it shall hereinafter be referred to in these by-laws as the IDA.

Section 2. Seal

The seal of the IDA shall be in the form of a circle and shall bear the name of the IDA and the year of its organization.

Section 3. Offices of the IDA

The principal office of the IDA shall be located at 83 Broadway, Newburgh, Orange County, State of New York. The IDA may have such other offices at such other places as the IDA may from time to time designate by resolution.

ARTICLE II

BOARD

Section 1. Members

The Members of the Board of the IDA shall number not less than three or more than seven. All references in these by-laws to Members of the Board shall be references to Members of the IDA. Members shall be appointed by the Common Council of the City of Newburgh, New York (the “City”) and shall serve at the pleasure of the Common Council. A Member shall continue to hold office until his or her successor is appointed and has qualified. Any one or more of the Members may be an officer or employee of the City. Members shall not receive any compensation for their service but shall be entitled to the reimbursement of necessary expenses, including traveling expenses, incurred in the discharge of their duties. Members shall at all times be in compliance with any and all requirements of law concerning their eligibility to hold office.

Section 2. Power of the Board and Qualifications of Members

The Agency shall be overseen and governed by its Board acting through its Members who shall exercise oversight and control over the officers and staff of the Agency. The Board and its Members shall have all powers conferred on Board Members of public benefit corporations and local public authorities pursuant to New York State law, including, without limitation, the IDA Act, the IDA’s Enabling Act, the Public Authorities Accountability Act of

2005 (the “PAAA”), the New York General Municipal Law (the “NYGML”), the New York Public Officers Law (the “NYPOL”), and any other New York State Law that is applicable to the Agency.

(a) At each Annual Meeting of the Board, the Members of the Board may elect any officer(s) of the Board, consisting of the Chair, one or more Vice Chairs, the Treasurer, one or more assistant Treasurers, the Secretary, and one or more Assistant Secretaries, each to hold office until the next Annual Meeting and until their successors have been elected and qualified. Each officer of the Board shall also be a Board Member, except that the Board may appoint one or more persons as Assistant Secretaries of the Agency who are not Board Members.

(b) Each Member shall have one vote.

Section 3. Organization

At each meeting of the Board, the Chair, or, in the absence of the Chair, a Vice Chair, shall preside, or in the absence of either of such officers, a chair chosen by a majority of the Members present shall preside. The Secretary shall act as secretary of the Board, provided, however, that an Assistant Secretary shall act as the secretary for meetings of the Board, unless the Members of the Board shall direct otherwise.

Section 4. Training

IDA Board members must participate in state approved training regarding their legal, fiduciary, financial and ethical responsibilities as directors of the IDA within one year of appointment to the Board.

Board members must participate in continuing training as may be required to remain informed of best practices and regulatory and statutory changes relating to effective oversight of management and financial activities of authorities.

Section 5. Fiduciary Responsibilities

Section 6(i) of Public Authorities Law, as amended by Chapter 506 of the Laws of 2009 PARA, that all board members must execute as part of their duties and responsibilities by signing an acknowledgement 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.”

Section 6. Separation of Board and Management

No Board member can serve as the IDA’s Chief Executive Officer, (or Director) Comptroller, or hold any other equivalent position while also serving as a board member.

Section 7. Board Member Independence and Financial Disclosure

In compliance with Section 2825 of the Public Authorities Law, the majority of the Members of the Board shall be Independent Members, as such term is defined in paragraph (a) below

(a) Independent Member Requirements

Except for board members who serve as members by virtue of holding a civil office of the state, the majority of the remaining members must be independent. An independent member is one who:

- i) Is not, and in the past two years has not been, employed by the IDA or an affiliate in an executive capacity;
- ii) Is not, and in the past two years has not been, employed by an entity that received remuneration valued at more than \$15,000 for goods and services provided to the IDA or received any other form of financial assistance valued at more than \$15,000 from the IDA;
- iii) Is not a relative of an executive officer or employee in an executive position of the IDA or an affiliate; and
- iv) 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, rate determinations or any other similar actions of the IDA or an affiliate.

(b) Financial Disclosure Requirements

Board members, officers and employees are required to file annual financial disclosure statements as required by the City of Newburgh Ethics Law.

Section 8. Resignations and Removal of Members

(a) Any Member of the Agency may resign at any time by giving written notice to the Chair or to the Secretary. Such resignation shall take effect at the time specified therein or, if no time be specified, then on delivery; provided, however, if the resignation shall result in the number of board members being reduced below the minimum number of members required under these By-Laws or otherwise required by law, such Member shall continue to serve until his or her successor has been appointed and qualified.

(b) The 2009 Public Authorities Reform Act grants the Authorities Budget Office (ABO) the power to publicly warn and censure the Agency or its members for non-compliance with the provisions of state law. The ABO may also recommend the suspension or dismissal of officers and/or boards of directors of public authorities under certain circumstances.

ARTICLE III

MEETINGS

Section 1. Annual Meeting

The annual meeting of the IDA shall be held each year on the third Monday of December, at a regular meeting place of the IDA, or as soon thereafter as possible.

Section 2. Regular Meetings

Regular meetings of the IDA may be held at such times and places as from time to time may be determined by the IDA. The IDA shall meet as a body minimally four times a year.

Section 3. Special Meetings

The Chair of the IDA may when they deem it desirable, and shall, on written request of two Members, call a special meeting of the IDA for the purpose of transacting any business designated in the notice for that meeting. At that special meeting, no business shall be considered other than as designated in the notice for that meeting, but if all the Members are present at a special meeting, with or without notice thereof, any and all business may be transacted at that special meeting.

Section 4. Open Meetings Law

All meetings of Members shall be conducted in accordance with the applicable provisions of the Open Meetings Law of the State of New York.

Section 5. Notice of Meetings

Except as provided in this section with respect to waivers of notice, written notice stating the place, day and hour of the meeting shall be given for all meetings of Members. Such notice shall state the person or persons calling the meeting. Notices of any special meeting shall state the purpose or purposes for which the meeting is called. Notice of any meeting of Members shall be given by e-mail, personally or by other means predetermined by the IDA not less than three (3) days nor more than (10) days before the date of the meeting, to each Member at his address recorded on the records of the IDA, or at such other address which the Member may have furnished in writing to the Secretary of the IDA. Any meeting of Members may be adjourned from time to time. In that event, it shall not be necessary to provide further notice of the time and place of the adjourned meeting if announcement of the time and place of the adjourned meeting is given at the meeting so adjourned. In the event a new date for an adjourned meeting is given, notice thereof shall be given in the same manner as provided in this section. No notice of any meeting need be given to any Member who executes and delivers a waiver of notice before or after the meeting.

Section 6. Quorum

Except as provided by law, a simple majority of Members shall constitute a quorum for the transaction of any business. In the absence of a majority, the members may adjourn the meeting and shall not conduct any official business.

Section 7. Procedure at Meetings

Meetings of members shall be presided over by the following officers as follows – the Chair, Vice Chair or, if neither the Chair nor the Vice Chair is in the office or present at the meeting, by a Chair pro tem to be chosen by a majority of the Members in attendance. The Secretary or Recording Secretary of the IDA shall act as Secretary of every meeting of the Members. When neither the Secretary nor Recording Secretary is available, the presiding officer may appoint a secretary of the meeting.

(a) The order of business at all meetings of Members shall be as follows:

- (1) Roll call;
- (2) Proof of Notice of Meeting;
- (3) Reading and approval of minutes of the previous meeting;
- (4) Report of the Treasurer;
- (5) Approval of payment of bills;
- (6) Unfinished business;
- (7) New business;
- (8) Adjournment.

(b) Except as otherwise provided by the Board of Directors, all resolutions shall be in writing and shall be copied in or attached to the journal of the proceedings of the IDA.

(c) The voting on all questions coming before the Members shall be by roll call, and the yeas and nays shall be entered in the minutes of that meeting, except in the case of election of officers when the vote may be by ballot. All votes must be cast in person.

(d) Meetings shall be governed by the same edition of Roberts Rules of Order.

Section 8. Code of Conduct and Attendance Policy

(a) Code of Conduct: Each member is hereby required to faithfully and regularly attend the regular and special meetings of the IDA and shall have the following affirmative duties and obligations as a member of same and in order to maintain such membership in good standing:

- i) To attend faithfully the meetings of the body.
- ii) To become familiar and to maintain familiarity with the duties, functions, operations and procedures of the body and with the laws, rules and regulations governing same.

- iii) To become familiar and to maintain familiarity with the items of business which come before such body.
- iv) To participate meaningfully in the conduct of the business of the body, including but not limited to adequate and appropriate preparation, substantive communication with other members and with persons coming before the body, participation in voting and other decision-making actions unless properly recused or excused there from;
- v) To comply with all standards and requirements applicable to members of any such body, including but not limited to taking any such actions as may be appropriate and necessary to maintain membership in good standing; to satisfy any and all requirements related or pertaining to residency, civil status, age and/or other matters specified in any law, code or rule; to satisfy any and all requirements related or pertaining to qualifications, training and/or continuing education; to satisfy any and all requirements for holding such office as may be required by the Charter, Code, laws or rules of the City of Newburgh; and to satisfy any and all requirements for holding such office as may concern member's fitness for duty and/or complying with reasonable standards of conduct.
- vi) To remain in compliance and satisfy all the requirements of all State and local ethics laws, codes and rules.

(b) Attendance Policy: Each member shall be and is hereby required to faithfully and regularly attend the regular and special meetings thereof. As used and defined herein every member shall comply with the following standard for attendance in order to maintain their membership on such body in good standing:

- i) No member shall have accumulated four (4) or more unexcused absences amounting to no less than thirty-three (33%) percent of the total number of regularly-scheduled and properly-noticed meetings of such body within the immediately preceding twelve (12) month period. For the purposes of this section, the term "unexcused absence" shall mean the failure of such member to attend such a meeting without having given advance notice to the Chair or Vice Chair that such member would be absent and without having received approval of such absence of the presiding officer of such body. Such approval shall be granted upon reasonable grounds and shall not be unreasonably withheld.
- ii) Any member of the City Council, the City Manager and/or any member of the body may petition in writing that a member of such

body be terminated as a member for failure to comply with this local law, including this attendance policy. Such petition shall specifically state the grounds including facts and circumstances upon which the request for termination is based. The petition shall be served by mail or in person upon the presiding officer of the body with a copy to the Corporation Counsel of the City of Newburgh. The presiding officer shall ensure that a copy of the petition is promptly provided to the member whose termination is sought.

- iii) Upon the filing of such petition the member whose termination is sought may request a hearing. At such hearing the petitioner and the subject member may testify, produce evidence and witnesses, and examine and cross-examine any witnesses and evidence. The Mayor as presiding officer of the body which is the appointing IDA shall preside at such hearing and shall render a decision as to whether the subject member shall remain on or be terminated from such body.

Section 9. Action by Telephone

One or more Members may participate in a meeting of the Members by means of conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. All votes must be cast in person, however, and participants joining by telephone shall not be considered part of a quorum.

ARTICLE IV

OFFICERS

Section 1. Officers

The officers of the IDA shall be a Chair, a Vice Chair, a Secretary, and a Treasurer. The IDA may also have as officers an Assistant Secretary and an Assistant Treasurer. Any two or more offices, except that offices of Chair and Secretary may be held by the same person.

Section 2. Chair

The Chair shall preside at all meetings of the IDA. Except as otherwise authorized by resolution of the IDA, the Chair shall execute (manually or by facsimile signature) all agreements, contracts, deeds, bonds or other evidences of indebtedness, and other instruments of the IDA on behalf of the IDA. At each meeting the Chair shall submit such recommendations and information as he may consider proper concerning the business, affairs and policies of the IDA. The Chair will be charged with setting the board's agenda, facilitating the flow of information to the board, coordinating the work of the board's committees and serving as the primary liaison between the members and the IDA's Administrative Director.

Section 3. Vice Chair

The Vice Chair shall perform the duties of the Chair in the absence or incapacity of the Chair, and in case of the resignation or death of the Chair, the Vice Chair shall perform such duties as are imposed on the Chair until such time as the IDA shall appoint a new Chair.

Section 4. Secretary

The Secretary shall keep the records of the IDA, shall act as secretary at meetings of the IDA and record all votes, shall keep a record of the proceedings of the IDA in a journal of proceedings to be kept for such purpose, and shall perform all duties incident to that office. The Secretary shall keep in safe custody the seal of the IDA and shall have power to affix such seal to all contracts and other instruments authorized to be executed by the IDA.

Section 5. Assistant Secretary

The Assistant Secretary shall perform the duties of the Secretary in the absence or incapacity of the Secretary, and in case of the resignation or death of the Secretary, the Assistant Secretary shall perform such duties as are imposed on the Secretary until such time as the IDA shall appoint a new Secretary.

Section 6. Treasurer

The Treasurer shall have the care and custody of all funds of the IDA and shall deposit those funds in the name of the IDA in such bank or banks as the IDA may select. Except as otherwise authorized by resolution of the IDA, the Treasurer shall sign all instruments of indebtedness, all orders, and all checks for the payment of money, and shall pay out and disburse such moneys under the direction of the IDA. Except as otherwise authorized by resolution of the IDA, all such instruments of indebtedness, order and checks shall be countersigned by the Chair. The Treasurer shall keep regular books of account showing receipts and expenditures and shall render to the IDA at each regular meeting an account of all financial transactions and also of the financial condition of the IDA. The Treasurer shall give such bond for the faithful performance of his duties as the IDA may determine.

Section 7. Assistant Treasurer

The Assistant Treasurer shall perform the duties of the Treasurer in the absence or incapacity of the Treasurer, and in case of the resignation or death of the Treasurer, the Assistant Treasurer shall perform such duties as are imposed on the Treasurer until such time as the IDA shall appoint a new Treasurer. The Assistant Treasurer shall give such bond for the faithful performance of his duties as the IDA may determine.

Section 8. Additional Duties

All officers of the IDA shall perform such other duties and functions as may from time to time be authorized by resolution of the IDA or be required by the IDA, by these by-laws, or by the rules and regulations of the IDA.

Section 9. Appointment of Officers

All Officers of the IDA shall be appointed at the annual meeting of the IDA from among the Members, and each officer shall hold office for one year until his successor is appointed.

Section 10. Vacancies

If any office becomes vacant, the IDA shall appoint a successor from among its Members at the next regular meeting, and that appointment shall be for the unexpired term of that office may be established from time to time by the Board, shall be countersigned or otherwise counter-authorized by the Chair or the Treasurer of the Board, or other officer or Board Member as shall be designated by the Board. The Comptroller shall also perform all other duties customarily incident to the office of a comptroller.

ARTICLE V

EXECUTIVE OFFICERS AND OTHER PERSONNEL

Section 1. Executive Director

The Agency shall appoint an Executive Director directly or by contract. The resolution or a contractual services agreement of the Agency shall set the terms of the Executive Director's employment and his or her annual compensation.

Section 2. Duties and Responsibilities of the Executive Director

The Executive Director shall be the Chief Executive Officer of the Agency and shall have general supervision and management of the Agency; all Agency staff and employees shall report directly to the Executive Director. Except as may otherwise be authorized by a resolution adopted by the Board, the Executive Director shall execute all agreements, bonds, notes, contracts, agreements, deeds, leases and any other instruments of the Agency. The Executive Director shall assist the Chair with such matters as the Chair or the Board may request in furtherance of the Agency's public purposes. The Executive Director shall be charged with leading the Agency in carrying out its Mission Statement and fulfilling its public purposes under the IDA Act and the PAAA. The Executive Director shall prepare and distribute all annual reports required by the IDA Act and the PAAA and as may otherwise be required by the Office of the Comptroller of the State of New York. The Executive Director of the Agency, in consultation with the Chair and the Comptroller of the Agency, shall prepare the annual budget of the Agency for submission to the Board for approval; and he or she shall distribute all copies of the annual budget of the Agency to all persons required by the IDA Act and the PAAA. The Executive Director of the Agency, if so designated by the Board, shall be the Contracting Officer

of the Agency for the disposition of real and personal property in accordance with the provisions of the PAAA, and the Chief Compliance Officer of the Agency for purposes of ensuring that the Agency is in full compliance with all provisions of the IDA Act and of the PAAA applicable to the Agency. The Executive Director shall also perform all other duties customarily incident to the office of a Chief Executive Officer of a public benefit corporation and public authority of the State of New York and such other duties as from time to time may be assigned by the Board.

Section 3. **Comptroller**

The Agency may appoint a Comptroller by resolution which resolution shall set the terms of the Comptroller's employment and his or her annual compensation. In the absence of a Comptroller, the Executive Director in consultation with the Board shall fulfill this role.

Section 4. Duties and Responsibilities of the Comptroller

The Comptroller shall be the Comptroller of the Agency. The Comptroller of the Agency shall assist the Executive Director in the carrying out of the Agency's fiscal responsibilities under the IDA Act and the PAAA. The Comptroller shall keep and maintain the books and accounts of the Agency and shall have charge and custody of, and be responsible for, all funds and securities of the Agency, and shall deposit all such funds in the name of and to the credit of the Agency in such banks, trust companies, or other depositories as shall be selected by the Board. Except as otherwise authorized by resolution of the Board, all purchase orders and instruments and checks for the payment of money shall be signed or otherwise authorized in writing by the Comptroller, and all payments and disbursements of such moneys shall be made or authorized by the Comptroller under the direction of the Board and the Treasurer of the Board. All such purchase orders and instruments and checks over certain dollar thresholds as Comptroller of a public benefit corporation and public authority of the State of New York and such other duties as from time to time may be assigned by the Board. The Comptroller shall assist the Executive Director in the preparation and distribution of all annual reports required by the IDA Act and the PAAA and as may otherwise be required by the Office of the Comptroller of the State of New York. The Comptroller of the Agency shall assist the Executive Director of the Agency in the preparation of the annual budget of the Agency for submission to the Board for approval. The Comptroller shall assist the Audit Committee of the Board in carrying out its functions.

Section 5. Compliance Officer

The Agency shall appoint a Compliance Officer by resolution, who may be the Executive Director, or any other employee of the Agency. The Compliance Officer shall be responsible for insuring that the Agency complies with all financial and other reporting requirements imposed by structure, including those requirements in the General Municipal Law and the Public Authorities Law of New York State. The Compliance Officer shall be the "Contracting Officer" (as such term is defined in Section 2895 of the Public Authorities Law).

Section 6. Duties and Responsibilities of the Recording Secretary

The Agency shall appoint a Recording Secretary by resolution which resolution shall set the terms of the Recording Secretary's employment and his or her annual compensation. The Recording Secretary shall act as secretary of all meetings of the Board, and shall:

- keep the minutes of all such meeting in a proper book or books to be provided for that purpose;
- see that all notices required to be given by the Agency are duly given and served;
- keep a current list of the members and officers of the Agency's Board and their residence addresses;
- be custodian of the seal of the Agency and shall affix the seal, or cause to be affixed to all agreements, documents and other papers requiring the same;
- undertake the filing of reports as required by General Municipal Law, Article 18 A and the Public Authorities Accountability Act of 2005 and 2009; and
- be the Freedom of Information officer of the Agency in accordance with the provisions of the New York State Freedom of Information Law., Article 6 of the New York Public Officers Law.

Section 7. Additional Personnel

The IDA may from time to time employ such personnel as it deems necessary to exercise its powers, duties and functions as prescribed by the New York State Industrial Development Agency Act, as amended, and all other laws of the State of New York applicable to the IDA. The selection and compensation of all personnel shall be determined by the IDA, subject to the laws of the State of New York.

Section 8. Municipal Personnel

The Agency may, with the consent of the City Council, use the agents, employees and facilities of the City of Newburgh.

The Agency, to further the economic goals of the City consistent with the mission of the Agency, may (i) enter into cooperative agreements with the City of Newburgh to provide technical and professional expertise in implementing and achieving mutual goals.

In such event, the Agency will, by resolution, enter into a contract with the City of Newburgh detailing the terms and compensation for the mutually agreed upon tasks, use of employees and facilities. The terms of the contract must be consistent with administrative requirements of Agency as mandated by state laws and by policies adopted by the Agency.

ARTICLE VI

COMMITTEES

Section 1. Standing Committees

Standing committees shall be established by Members and shall include the following: A Governance Committee and Finance Committee. The Board may from time to time, by resolution adopted by a majority of Members, establish other standing committees. The Chair shall appoint the chairpersons of the standing committees.

Section 2. Governance Committee

(a) The responsibilities of the governance committee shall include establishing policies to promote honest and ethical conduct by IDA directors, officers and employees and enhance public confidence in the IDA.

(b) The governance committee shall review and regularly update the IDA's ethics policy and written policies regarding conflicts of interest. Such policies shall be at least as stringent as the laws, rules, regulations and policies applicable to state officers and employees.

(c) The governance committee shall establish a policy providing guidance to the City Council on the qualifications and professional expertise of potential candidates and detail the responsibilities of membership on the board of the Agency. The committee will make itself available to facilitate the nomination process established by the City Council.

(d) The governance committee shall review and regularly update the IDA's written policies regarding procurement of goods and services and the acquisition of real property or interests therein, including policies relating to the implementation of Executive Order No. 127 and the disclosure of persons who attempt to influence the IDA's procurement process.

(e) The governance committee shall review and regularly update the IDA's written policies regarding the disposition of real and personal property.

(f) The governance committee shall review and regularly update the IDA's written policies regarding the protection of whistleblowers from retaliation.

(g) The responsibilities of the Governance Committee shall include keeping up-to-date with current governance practices; recommended policies, continually reviewing corporate governance trends and best practices; and updating the IDA's corporate governance documents accordingly.

Section 3. Finance/Audit Committee

(a) The responsibilities of the finance/audit committee shall include:

i) Reviewing and approving the IDA's financial statements;

- ii) Overseeing the IDA’s internal controls and compliance systems;
- iii) Appointing, compensating and overseeing outside auditors retained by the IDA;
- iv) Resolving disagreements with respect to, and overseeing compliance with accounting policies and principles;
- v) Reviewing management reports on internal controls and the attestation of such reports by the IDA’s outside auditors;
- vi) Investigating compliance with the IDA’s policies and/or referring instances of non-compliance to the State Inspector General for investigation; and
- vii) Make recommendations to the board concerning the engagement of a certified independent accounting firm, compensation to be paid for same, and to provide direct oversight of the engagement.

(b) The finance/audit committee shall establish procedures for the receipt, retention, investigation, and/or referral to the State Inspector General of complaints received by the IDA regarding accounting, internal controls, and auditing.

(c) The finance/audit committee shall establish policies and procedures to ensure that every director, officer and employee of the IDA shall report promptly to the State Inspector General any information concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse by the directors, officers, or employees of the IDA or any persons having business dealings with the IDA. The finance/audit committee shall review all reports and draft reports delivered by the State Inspector General (or, where applicable, the IDA’s Inspector General) to the IDA and shall serve as a point of contact with such Inspector General.

- i) The IDA shall ensure that the finance/audit committee has access to sufficient resources to carry out its duties.
- ii) Insofar as practicable, at least one member of the finance/audit committee should be a ‘financial expert’ and this shall be disclosed in the annual report of the IDA. Each member of the finance/audit committee shall have financial experience and, if possible at least one member who qualify as a financial expert. The Model Governance Principles originally only required that one member of the finance/audit committee be a “financial expert,” in so far as possible.

ARTICLE VII

CONTRACTS, CHECKS, DRAFTS AND BANK ACCOUNTS

Section 1. Execution of Contracts

The Board, except as in these By-laws otherwise provided, may authorize any officer or officers, agent or agents, in the name of and on behalf of the Agency to enter into any contract or execute and deliver any instrument, and such authority may be general or confined to specific instances; but, unless so authorized by the Board, or expressly authorized by these By-laws, no officers, agent or employee shall have any power or authority to bind the Agency by any contract or engagement or to pledge its credit or to render it liable peculiarly in any amount for any purpose.

Section 2. Loans

No loans shall be contracted on behalf of the Agency unless specifically authorized by the Board and permitted by governing state legislation.

Section 3. Checks, Drafts, Etc.

All checks, drafts and other orders for the payment of money out of the funds of the Agency, and all notes or other evidences of indebtedness of the Agency, shall be signed on behalf of the Agency in such manner as shall from time to time be determined by these By-laws or by resolution of the Board.

Section 4. Deposits

All funds of the Agency not otherwise employed shall be deposited from time to time to the credit of the Agency in such banks, trust companies or other depositories, in interest bearing accounts, as the Board may select.

ARTICLE VIII

MISCELLANEOUS

Section 1. Ethics Policy

(a) Conflicts of Interest: The NYS and City of Newburgh laws and Code of Ethics apply to all members and staff. Such persons should not have any interest in or engage in any business or activity “in substantial conflict” with the discharge of their public duties. This restriction prohibits members from:

- i) disclosing confidential information acquired in the course of official duties or using such information to further personal interests;
- ii) using or attempting to use official positions to secure unwarranted privileges or exemptions for individual members or others;
- iii) giving reasonable basis for the impression that any person can improperly influence members and staff or unduly enjoy favor in the performance of their official duties, or that members are affected by the kinship, rank, position or influence of any party or person.

(b) Members and staff Members of the IDA should endeavor to pursue a course of conduct, which will not raise suspicion among the public that they are likely to be engaged in acts that are in violation of public trust.

Section 2. Whistleblower Protection and Code of Ethics Policy

The IDA shall adopt a whistleblower protection and code of conduct policy, which shall be reviewed annually by its Governance Committee. Such policy shall be amended hereto these by-laws.

Section 3. Procurement Policy

The IDA shall adopt a procurement policy, which shall be reviewed annually by its Governance Committee. Such policy shall be amended hereto these by-laws.

Section 4. Books and Records

The IDA shall keep, at the principal office of the IDA, complete and correct records and books of account, and shall keep minutes of the proceedings of the Members or any committee appointed by the Members, as well as a list or record containing the names and addresses of all members.

Section 5. Annual Report

Within 90 days after the end of the fiscal year, the IDA must submit an annual report to the Common Council of the City of Newburgh and the New York State Budget IDA Office. Required report contents include:

- (a) IDA's operations and accomplishments;
- (b) IDA's receipts and disbursements, or revenues and expenses, during such fiscal year;

(c) IDA's assets and liabilities at the end of its fiscal year including the status of reserve, depreciation, special or other funds and including the receipts and payments of these funds;

(d) A schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the accounts redeemed and incurred during such fiscal year as part of a schedule of debt issuance;

(e) A compensation salary schedule, compensation, allowance and/or benefits provided to any officer, director or employee in a decision making or managerial position of such IDA;

(f) The projects undertaken by such IDA during the past year;

(g) Listing of:

i) all real property of such that the IDA intends to dispose of;

ii) all such property held by the authority at the end of the period covered by the report; and

iii) all such property disposed of during such period.

(h) IDA's code of ethics; and an assessment of the effectiveness of its internal control structure and procedures;

(i) Every financial report submitted in the annual report must be approved by the board and must be certified in writing by the CEO and Treasurer of such IDA, or other authorized persons serving in those capacities.

Section 6. Independent Audit Report

The finance/audit committee shall present to the board upon its completion an annual independent audit performed by a certified public accounting firm in accordance with generally accepted government auditing standards. The report should include the following:

(a) The assets and liabilities, including the status of the reserve, depreciation, special or other funds including the receipts and payments of such funds, of the IDA, as of the end of the fiscal year;

(b) the principal changes in assets and liabilities, including trust funds, during said fiscal year;

(c) the revenue or receipts of the IDA, both unrestricted and restricted to particular purposes during said fiscal year;

(d) the expenses or disbursement of the IDA for both general and restricted purposes during said fiscal year;

(e) a schedule of the bonds and notes of the IDA outstanding during said fiscal period, including all refinancing, calls, refunding, and interest rate exchanges or other such agreements; and for any debt issued during the fiscal year, including the date of issuance, term amount, interest rate, means of repayment and cost of issuance.

Section 7. Property Disposition

(a) Property Disposal Guidelines: The IDA must adopt comprehensive guidelines with detailed policies regarding property disposal contracts and appoint a Contracting

(b) Officer to be responsible for compliance and enforcement of such guidelines. The guidelines should be annually reviewed and approved by the board. The guidelines should be filed with the State Comptroller and posted on the IDA's website.

(c) Property Disposition Report: the IDA shall publish, not less frequently than annually, a report listing all real property of the IDA. The report shall describe all property disposed of during the reporting period. The report must contain the price paid by the IDA and the name of the purchaser for all property sold by the IDA during the reporting period.

Section 8. Investment Guidelines

The IDA shall adopt and review comprehensive investment guidelines which detail the IDA's operative policy and instructions to officers and staff regarding the investing, monitoring and reporting of funds of the corporation. These guidelines must be annually reviewed and approved.

Section 9. Transparency and Public Communications

To the extent practicable, the IDA shall post its mission, current activities, approved minutes, meeting agenda, most recent annual financial report, current year budget and its most recent independent audit report online.

Section 10. Indemnification

To the extent permitted by law, the IDA shall indemnify any person, made a party to an action by or in the right of the IDA to procure a judgment in its favor by reason of the fact that he, his testator or intestate, is or was an officer of the IDA, against the reasonable expenses, including attorneys' fee, actually and necessarily incurred by him in connection with the defense of such action, or in connection with an appeal therein, except in relation to matters as to which such officer is adjudged to have breached his fiduciary duty to the IDA. The foregoing rights of indemnification shall not be exclusive of other rights to which such an officer may be entitled.

Section 11. Compliance with General Municipal Law, Article 18A and the Public Authorities Accountability Act, 2005 and 2009

The Agency will incorporate, by simple majority, any new sections into the By-Laws, or incorporate management and operational requirements of the Agency as required by laws enacted by the New York State Legislature and/or policy recommendations of the Authorities Budget Office, State Comptroller, Open Government Committee and other governing agencies of the state.

Section 12. Amendments

The by-laws of the IDA may be amended only with the approval of a majority plus one of all the Members at a regular or special meeting, but no such amendment shall be adopted unless at least seven (7) days written notice of that meeting has been previously given to all Members.

CITY OF NEWBURGH

INDUSTRIAL DEVELOPMENT AGENCY

Code of Ethics

Statement of Purpose:

The Code of Ethics (the “Code”) is a public statement by the City of Newburgh Industrial Development Agency (the “Agency”) that sets clear expectations and principles to guide practice and inspire professional excellence. The Agency believes a commonly held set of principles can assist in the individual exercise of professional judgment. This code speaks to the core values of public accountability and transparency. The purpose of having a code of ethics and practices is to protect the credibility of the Agency by ensuring high standards of honesty, integrity and conduct to staff. To that end, this Code of Ethics attempts to accomplish this by articulating the ethical standards observed by the Agency in pursuing and implementing economic development initiatives, and setting rules and policies that prevent conflicts of interest. This Code of Ethics is in addition to, and not in lieu of, the Code of Ethics of the City of Newburgh (“City Code of Ethics”) which is incorporated by this reference. To the extent that there is a conflict between this Code of Ethics and the City Code of Ethics, this Code of Ethics shall control.

Rule with respect to conflicts of interest:

No officer, member of the board, or employee of the Agency should 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 his or her duties in the public interest.

Standards:

- a. No officer, member of the board, or employee of the Agency should accept other employment which will impair his or her independence of judgment in the exercise of his or her official duties.
- b. No officer, member of the board, or employee of the Agency should accept employment or engage in any business or professional activity which will require him or her to disclose confidential information which he or she has gained by reason of his or her official position or authority.
- c. No officer, member of the board, or employee of the Agency should disclose confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests.
- d. No officer, member of the board, or employee of the Agency should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself, or others.

- e. No officer, member of the board or employee of the Agency should engage in any transaction as representative or agent of the Agency with any business entity in which he or she has a direct or indirect financial interest that might reasonably conflict with the proper discharge of his or her official duties.
- f. No officer, member of the board, or employee of the Agency should not by his or her conduct give reasonable basis for the impression that any person can improperly influence him or her, unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.
- g. An officer, member of the board, or employee of the Agency should abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by him or her, or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest. Nothing contained within this policy, however, shall prohibit an officer, member of the board, or employee of the Agency from obtaining interests in mutual funds which may include within its investment portfolio, bonds, debentures, notes, or other evidence of indebtedness of the Agency; provided, however, that the Agency's bonds, debentures, notes or other evidence of indebtedness may not make up more than ten percent (10%) of the mutual fund's total portfolio and the officer, Member of the Board, or employee of the Agency may not exercise any discretion with respect to the investments made by the mutual fund company.
- h. An officer, member of the board, or employee of the Agency should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.
- i. No officer, member of the board, or employee of the Agency employed on a full-time basis, nor any firm or association of which such an officer or employee is a member, nor any corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such officer, member of the board or employee, should sell goods or services to any person, firm, corporation, or association which receive financial assistance from the Agency.
- j. If any officer, member of the board, or employee of the Agency shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is the subject of an Agency project (as such term is defined in Article 18-A of the General Municipal Law), he or she must file with the Agency a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.
- k. No officer, member of the board or employee of shall accept or arrange for any loan or extension of credit from the Agency or any affiliate of the Agency.

Violations:

In addition to any penalty contained in any other provision of law, any such officer, member of the board, or employee who shall knowingly and intentionally violate any of the provisions of this Code of Ethics may be fined, suspended, or removed from office or employment in the manner provided by law.

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

Conflict of Interest Policy

All Board Members and employees of the City of Newburgh Industrial Development Agency shall be provided with a copy of this Conflict of Interest Policy (“Policy”) upon commencement of employment or appointment to the Board and shall be required to acknowledge that they have read, understand, and are in compliance with the terms of this Policy. Board members and employees should review, on an ongoing basis, circumstances that constitute a conflict of interest or the appearance of a conflict of interest, abide by this Policy and seek guidance when necessary and appropriate.

This Policy is intended to supplement, but not replace, any applicable state and federal laws governing conflicts of interest applicable to public authorities.

Conflicts of Interest: A conflict of interest is a situation in which the financial, familial, or personal interests of a director or employee come into actual or perceived conflict with their duties and responsibilities with the City of Newburgh Industrial Development Agency (“Agency”). Perceived conflicts of interest are situations where there is the appearance that a board member and/or employee can personally benefit from actions or decisions made in their official capacity, or where a board member or employee may be influenced to act in a manner that does not represent the best interests of the agency. The perception of a conflict may occur if circumstances would suggest to a reasonable person that a board member and/or employee may have a conflict. The appearance of a conflict and an actual conflict should be treated in the same manner for the purposes of this policy.

Board members and employees must conduct themselves at all times in a manner that avoids any appearance that they can be improperly or unduly influenced, that they could be affected by the position of or relationship with any other party, or that they are acting in violation of their public trust. While it is not possible to describe or anticipate all the circumstances that might involve a conflict of interest, a conflict of interest typically arises whenever a director or employee has or will have:

- A financial or personal interest in any person, firm, corporation or association which has or will have a transaction, agreement or any other arrangement in which the agency participates.
- The ability to use his or her position, confidential information or the assets of the agency to his or her personal advantage.
- Solicited or acceptance of a gift of any amount under circumstances in which it could reasonably be inferred that the gift was intended to influence him/her, or could reasonably be expected to influence him/her, in the performance of his/her official duties or was intended as a reward for any action on his/her part.
- Any other circumstance that may appear to make it difficult for the board member or employee to exercise independent judgment and properly exercise his or her official

duties.

Outside Employment of Agency's Employees: No employee may engage in outside employment if such employment interferes with his/her ability to properly exercise his or her official duties with the agency.

Duty to Disclose: All material facts related to the conflicts of interest (including the nature of the interest and information about the conflicting transaction) shall be disclosed in good faith and in writing to the Governance Committee and/or the Ethics Officer. Such written disclosure shall be made part of the official record of the proceedings of the agency.

Determining Whether a Conflict of Interest Exists: The Governance Committee and/or Ethics Officer shall advise the individual who appears to have a conflict of interest how to proceed. The Governance Committee and/or Ethics Officer should seek guidance from counselor New York State agencies, such as the Authorities Budget Office, State Inspector General, or the Joint Commission on Public Ethics (JCOPE) when dealing with cases where they are unsure of what to do.

Recusal and Abstention: No board member or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any organization in which he or she is deemed to have an interest. Board members and employees must recuse themselves from deliberations, votes, or internal discussion on matters relating to any organization, entity or individual where their impartiality in the deliberation or vote might be reasonably questioned, and are prohibited from attempting to influence other board members or employees in the deliberation and voting on the matter.

Records of Conflicts of Interest: The minutes of the agency's meetings during which a perceived or actual conflict of interest is disclosed or discussed shall reflect the name of the interested person, the nature of the conflict, and a description of how the conflict was resolved.

Reporting of Violations: Board members and employees should promptly report any violations of this policy to his or her supervisor or to the agency's ethics officer, general counsel, or human resources representative in accordance with the agency's Whistle-blower Policy and Procedures.

Penalties: Any director or employee that fails to comply with this policy may be penalized in the manner provided for in the law, rules, or regulations.



FREEDOM OF INFORMATION LAW POLICY

Introduction

The City of Newburgh Industrial Development Agency (the “Agency”) is subject to New York State’s Freedom of Information Law (FOIL). The purpose of FOIL is to allow the public access to record(s) used in establishing public policy or decision-making.

What is a ‘Record’?

A record is any information kept by the agency in any physical form whatever. In addition to paper records this includes:

- CDs, computer discs and other electronic media;
- Audio and video tape recordings; and
- Emails, charts, maps and photographs.

While the Agency is not required to prepare new records to comply with FOIL, the Agency is required to provide information from its existing records in the form requested if it has the ability to do so.

What Records are Accessible under FOIL?

As a practical matter, records are accessible unless they fall under one of the exclusions set out in

Public Officers Law Article 6. Those most applicable to the Agency are:

- Disclosure would result in an unwarranted invasion of personal privacy (unless deletion of identifying information is possible, the person involved consents or the person involved seeks records relating to him/herself);
- Disclosure of trade secrets would cause substantial injury to the competitive position of the involved company; or
- Intra-agency memoranda (other than instructions to staff that affect the public) and draft/non-final determinations of the agency.

The Agency is required to maintain the following records:

- A record of any abstention or “No” vote for an action item at each meeting. As a practical matter this should be included in the minutes to each board and committee meeting.

- A list of the names, public office address, title and salary (at the present time not applicable) of every officer and staff member of the agency.
- A detailed list of the subject matter of all records in the possession of the agency.

Records Access Officer and Appeals Officer

The Agency has designated the Executive Director as the Records Access Officer for the purposes of FOIL. The Agency has designated its Chair as the Agency Appeals Officer. The Records Access Officer has the duty of coordinating the Agency's response to public request for records.

Requests for Access to the Agency's Records

Records of the Agency may be requested in writing or email from the agency's Records Access Officer as follows:

- By regular mail at: Records Access Officer City of Newburgh IDA, P.O. Box 1298
Newburgh, NY 12551
- By electronic mail at: IDADirector@cityofnewburgh-ny.gov

The request must include the name of the contact person, the contact person's regular mailing address, and the contact person's telephone number.

Copies of the Agency's record(s), if they exist, produced pursuant to a FOIL request shall be provided upon prepayment of \$.25 per page copied for up to 8 1/2 by 11 inch documents, or the actual cost of reproducing any other record, except when a different fee is otherwise prescribed by statute.

The Agency must respond in writing to requests for information within five (5) business days of receipt by either:

- Making the record available;
- Denying access, writing giving the reason(s) for the denial; or
- Acknowledge the request within five (5) days of the receipt of the request and state the approximate date when the request will be granted (normally within 20 days from the date of acknowledgement unless otherwise stated in writing).

City of Newburgh Industrial Development Agency

Application for Public Access to Records

PLEASE ADDRESS ALL FOIL REQUESTS TO:
Record Access Officer
City of Newburgh Industrial Development Agency
P.O. Box 1298 Newburgh, NY 12551
Email: IDADirector@cityofnewburgh-ny.gov

_____: I HEREBY APPLY TO INSPECT THE FOLLOWING RECORD(S):

_____: I REQUEST COPIES OF THE FOLLOWING RECORD(S):

Sincerely,

Signature

Printed Name and Company name

Company Name (if applicable)

Date

Mailing Address (street number, street name, town/city, state and zip code)

Phone Number

For Agency Use Only

- Approved
- Denied (for the reason(s) checked below)
- Confidential Disclosure
- Part of Investigatory Files
- Unwarranted Invasion of Personal Privacy
- Record of which this Agency is legal custodian cannot be found
- Exempted by Statute other than the Freedom of Information Act
- Other: _____

Signature

Title

Date



2025 LOCAL LABOR POLICY

Section 1: Purpose and Authority

The City of Newburgh Industrial Development Agency (the “Agency”) was created for the purpose of creating employment opportunities for, and to promote the general prosperity and economic welfare of, the residents of the City of Newburgh, Orange County, New York. The Agency offers economic incentives and benefits to qualified applicants who wish to locate or expand their businesses or facilities in the City of Newburgh. When the Agency approves a project, it enters into agreements to extend these incentives and benefits to the applicant.

Construction jobs, though limited in time duration, are vital to the overall employment opportunities and economic growth in the City of Newburgh specifically and in Orange County generally. The Agency believes that companies benefiting from its financial assistance programs should employ local laborers, mechanics, craft persons, journey workers, equipment operators, truck drivers and apprentices (hereinafter “construction workers”), including those who have returned from military service, during the construction phase of projects. In this way, the Agency can generate significant benefits to advance the City of Newburgh 's general prosperity. It is also the goal of the Agency to promote the use of local veterans on projects receiving Agency benefits. By partnering with local contractors, local contractor groups, local trade unions and contractors awarded work on Agency projects, there are opportunities for veterans to gain both short-term and long-term careers in the construction industry.

Section 2: General Provisions

It is, therefore, the policy of the Agency that firms benefiting from its programs shall employ workers from the City of Newburgh and the “local labor” market for (i) the site preparation and construction phases of the project, (ii) the installation of the internal furnishings and equipment outfitting if, and to the extent, that the Agency granted benefits regarding such internal furnishings and equipment outfitting of the constructed facility (e.g., sales tax benefits on such furnishings and/or equipment), and (iii) all renovations and additions if, and to the extent, that the Agency granted benefits for such renovations and additions.

For the purpose of this policy (“Policy”), the “local labor” market for construction workers shall be defined as those individuals living in City of Newburgh or in the following Counties: Orange, Ulster, Sullivan, Dutchess, Putnam, Rockland and Westchester. The Agency encourages each applicant receiving financial assistance to utilize labor from the City of Newburgh and/or Orange County to the extent possible. Each applicant (“Applicant”) receiving Agency financial assistance (collectively, “Agency Benefits”) shall ensure that contractor(s) and developer(s) engage or hire at least 85% from the “local labor” market for their approved projects. The 85% shall be borne by each primary contractor including their subcontractors and in total at the time of completion of the project. The contractor/developer is mandated to keep daily log sheets of all field workers, commencing on the date of application. Any work performed after application shall be included in the determination of overall compliance with the 85% hiring requirements of this Policy. A third-party auditing firm (the “Agency Project Monitor” or the “Monitor”) will be engaged to monitor construction work commencing on the date Agency Benefits are granted by resolution of the Agency. Monitoring on site by the third-party auditing firm may be performed with or without prior notice to the Applicant to ensure accuracy of the monitoring information and reporting. Each Applicant will be responsible for the payment of such auditing firm.

Section 3: Exemptions

The Agency recognizes, however, that the use of local labor may not be possible for several reasons, and the Applicant may request an exemption on a particular contract or trade scope for the following reasons:

1. Warranty issues
 - a. In the case a specialized manufacturing warranty is required by the applicant in which no local labor can manufacture an “all equal” product
 - b. In the case an installation warranty is required by the applicant in which no local labor can install an “all equal” product
2. Specialized construction is required and no local contractors or local construction workers have the required skills, certifications or training to perform the work;
3. Cost Differentials:
 - a. For projects whose project cost are equal to or in excess \$15,000,000, significant cost differentials in bid prices whereby the use of local labor and materials significantly increases the subcontract or contract of a particular trade or work scope by 30%. Every reasonable effort should be made by the Applicant and or the Applicants' contractor to get below the 30% cost differential including, but not limited to, communicating and meeting with local construction

trade organizations, such as the local Contractor Associations. If the applicant or applicants' contractors cannot get below the 30% cost differential, the applicant must give the otherwise preferred local bidder one final chance to get below the 30% cost differential. This effort must be documented and presented to the Agency's third-party local labor monitoring firm.

b. For projects whose project cost is less than \$15,000,000, significant cost differentials in bid prices whereby the use of local labor and materials significantly increases the subcontract or contract of a particular trade or work scope by 15% or more. Every reasonable effort should be made by the Applicant and or the Applicants' contractor to get below the 15% cost differential including, but not limited to, communicating and meeting with local construction trade organizations, such as the local Contractor Associations. If the applicant or applicants' contractors cannot get below the 15% cost differential, the applicant must give the otherwise preferred local bidder one final chance to get below the 15% cost differential. This effort must be documented and presented to the Agency's third-party local labor monitoring firm.

4. No local labor is available for the project; and
5. The contractor requires key or core persons such as supervisors, foreman or "construction workers" having special skills that are not available in the "local labor" market.

The request to secure an exemption for the use of non-local labor must be received from the Applicant on the exemption form provided by the Agency or the Monitor and received in advance of work commencing. The request will be reviewed by the Monitor and forwarded to the Agency, at which time the Agency's Audit Committee shall have the authority to approve or disapprove the exemption. The Monitor shall report each authorized exemption to the Board of Directors at its' bi-monthly meeting.

Section 4: Certified Payroll Records and Monitoring Requirement

A certified payroll requirement improves record keeping and accountability about job descriptions, hours worked and wages earned on an IDA Project site. Accordingly, the designated construction manager for the IDA Project, acting as agent for the applicant, on the IDA Project shall: (i) provide to the duly designated Monitor" within 30 days of the end of the month being reported a certified monthly payroll report of all construction workers working on the IDA Project site, which include names, days/hours worked, and rate of pay, and worker classification, and (ii) annually certify to the Agency that the IDA Project is in compliance with state laws related to environmental quality, worker safety and protection, and wages and hours.

The Monitor shall issue a report to the Executive Director relative to compliance with this policy who shall share such information with the IDA Board of Directors. All applicants have a duty to cooperate with the Monitor. All costs of the Monitor shall be the obligation of the applicant. If a violation of the policy has occurred, the Executive Director shall notify the applicant in writing and give such applicant a warning of such violation. In the event there is a subsequent violation of the policy, the Executive Director shall bring such information to the IDA Board of Directors which may, in its discretion, take action to revoke or recapture IDA benefits

Section 5: Project Information

Applicants receiving Agency financial assistance, as well as contractor(s)/developer(s) on the project, shall make every effort to utilize vendors, material suppliers, subcontractors and professional services from the City of Newburgh and the surrounding counties identified above. Applicant(s), contractor(s) and developer(s) shall be required to keep records of those local vendor(s), material supplier(s), contractor(s) and professional services whom they have solicited and with whom they have contracted with or made awards to. This shall be stored in a binder on the project site during construction and shall be easily available for review by an authorized representative of the Agency, such as the Agency' s Monitor. Such binder shall also include any documents for solicitation and the final contracts. Once approved for Agency Benefits, all Applicants will be required to provide to the Agency' s staff the following information:

1. Contact information for the Applicant's representative who will be responsible and accountable for providing information about the bidding and awarding of construction contracts relative to the Applicants project;
2. Description of the nature of construction jobs created by the project, including in as much detail as possible, the number, type and duration of construction positions;
3. The names, contact information, certificate of authorization to do business in the State of New York and copies of current Certificates of NYS Workers' Compensation Insurance, NYS Disability Insurance, General Liability Insurance and proof of current OSHA training certification from all contractors' employees performing work on the site; and
4. A Construction Completion Report listing the names and business locations of prime contractors, subcontractors and vendors who have been engaged in the construction phase of the project.

All Agency projects are subject to local monitoring by the Agency and the Monitor. The Applicant and/or construction manager or general contractor acting as agent for the Applicant

on the project, shall keep a log book on site detailing the number of workers, hours worked and counties and states in which they reside. Proof of residency or copy of drivers' license shall be included in the log book, along with evidence of necessary OSHA Certifications. Reports will be on forms provided by the Agency or weekly payroll reports which contain the same information as required on the Agency issued form. The Applicant(s), contractor(s) and developer(s) are subject to periodic inspection or monitoring by the Agency or the Monitor.

Section 6: Bulletin Board

The Agency will use a third-party firm(s) to monitor and audit compliance with this Policy, the cost of which shall be paid for by the Applicant at closing in advance of future audits and held in a non-interest bearing escrow account by the Agency until all such audits are completed. The Applicant of an Agency approved project, unless otherwise agreed by the Agency, shall be required to maintain a 4' X 8' bulletin board on the project site. The bulletin board shall be located in an area that is accessible to onsite workers and visitor, which should be clear and legible at least 10 feet from said bulletin board, and contain the following information:

1. Contact information for the Applicant;
2. Summary of the Agency Benefits received;
3. Contractor's name(s) and contact information;
4. Copies of proof of exemption (if any) from this Policy;
5. Copies of any warnings or violations (if any) of this Policy; and
6. Copy of this Policy executed by the Applicant.

Section 7: Compliance

The Monitor shall issue a report to the Agency immediately when an Applicant or Applicants' contractor (or developer) is not in compliance of this Policy. Agency staff shall advise the Audit Committee and/or Agency Board on non-compliance by email or at the next scheduled meeting. If a violation of this Policy has occurred, Agency staff shall notify the Applicant and contractor in writing of noncompliance and give Applicant a warning of violation and 72 hours in which to correct such violation. Upon evidence of continued non-compliance or additional violations, the Agency and/or the Monitor shall notify the Applicant that the project is in violation of this Policy and is subject to Agency Board action which may result in the revocation, termination and/or recapture of any or all Agency Benefits conferred by the Agency as provided in the project closing documents.

ATTACHMENTS

- Exhibit A Certificates of Authorization and Insurance Requirements Policy
- Exhibit B Mandated safety Training and Drug Screening Policy
- Exhibit C Certified payroll Records and Monitoring Requirements Policy
- Exhibit D Apprenticeship Program Policy

Exhibit A

CERTIFICATES OF AUTHORIZATION AND INSURANCE REQUIREMENTS POLICY CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

The City of Newburgh Industrial Development Agency (IDA) was created for the purpose of creating employment opportunities for, and to promote the general prosperity and economic welfare of the residents of the City of Newburgh. The IDA offers economic incentives and benefits to qualified applicants who wish to locate or expand their businesses or facilities in the City of Newburgh. When the IDA approves a project, it enters into agreements to extend these incentives and benefits to the applicant. In order to adequately protect the IDA from claims, all applicants are required to provide to the IDA's Executive Director or a duly appointed IDA monitor ("Monitor") with the names, contact information, certificate of authorization to do business in the State of New York and copies of current Certificates of State of New York Workers' Compensation Insurance, State of New York Disability Insurance, and General Liability Insurance of all contractors working on the Project. All applicants have a continuing obligation to provide this information to the IDA during the course of Project construction. The Monitor shall issue a report to the Executive Director relative to compliance with this policy who shall share such information with the IDA Board of Directors. All applicants have a duty to cooperate with the Monitor. All costs of the Monitor shall be the obligation of the applicant. If a violation of the policy has occurred, the Executive Director shall notify the applicant in writing and give such applicant a warning of such violation. In the event there is a subsequent violation of the policy, the Executive Director shall bring such information to the IDA Board of Directors which may, in its discretion, take action to revoke or recapture IDA benefits.

Exhibit B

MANDATED SAFETY TRAINING AND DRUG SCREENING POLICY

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

The City of Newburgh Industrial Development Agency (IDA) was created for the purpose of creating employment opportunities for, and to promote the general prosperity and economic welfare of the residents of the City of Newburgh. The IDA offers economic incentives and benefits to qualified applicants who wish to locate or expand their businesses or facilities in the City of Newburgh. When the IDA approves a project, it enters into agreements to extend these incentives and benefits to the applicant. Promoting safe and healthful working conditions on IDA Project sites is always in the best interest of the residents of the City of Newburgh. To foster a culture of safety on all IDA Project sites, all applicants are required to provide the following to the IDA's Executive Director or a duly appointed IDA monitor ("Monitor"):

- Proof of current OSHA 30 training certification (completed within the last five years and renewed every 5 years) for all construction workers performing work on the Project site.
- Proof of a four (4) hour scaffold course for all construction workers utilizing a scaffold on the IDA Project site.
- Proof that all construction workers working on the IDA Project site passed a drug screening test prior to their hiring.

The Monitor shall issue a report to the Executive Director relative to compliance with this policy who shall share such information with the IDA Board of Directors. All applicants have a duty to cooperate with the Monitor. All costs of the Monitor shall be the obligation of the applicant. If a violation of the policy has occurred, the Executive Director shall notify the applicant in writing and give such applicant a warning of such violation. In the event there is a subsequent violation of the policy, the Executive Director shall bring such information to the IDA Board of Directors which may, in its discretion, take action to revoke or recapture IDA benefits.

Exhibit C

CERTIFIED PAYROLL RECORDS AND MONITORING REQUIREMENTS POLICY

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

The City of Newburgh Industrial Development Agency (IDA) was created for the purpose of creating employment opportunities for, and to promote the general prosperity and economic welfare of the residents of the City of Newburgh. The IDA offers economic incentives and benefits to qualified applicants who wish to locate or expand their businesses or facilities in the City of Newburgh. When the IDA approves a project, it enters into agreements to extend these incentives and benefits to the applicant. A certified payroll requirement improves record keeping and accountability about job descriptions, hours worked and wages earned on an IDA Project site. Accordingly, the designated construction manager for the IDA Project, acting as agent for the applicant, on the IDA Project shall: (i) provide a duly designated IDA Project monitor ("monitor") with a certified, monthly payroll of all construction workers working on the IDA Project site, which include names, days/hours worked, and rate of pay, and worker classification and (ii) annually certify that the IDA Project is in material compliance with state laws related to environmental quality, worker safety and protection, and wages and hours. The Monitor shall issue a report to the Executive Director relative to compliance with this policy who shall share such information with the IDA Board of Directors. All applicants have a duty to cooperate with the Monitor. All costs of the Monitor shall be the obligation of the applicant. If a violation of the policy has occurred, the Executive Director shall notify the applicant in writing and give such applicant a warning of such violation. In the event there is a subsequent violation of the policy, the Executive Director shall bring such information to the IDA Board of Directors which may, in its discretion, take action to revoke or recapture IDA benefits.

Exhibit D

APPRENTICESHIP PROGRAM POLICY

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

The City of Newburgh Industrial Development Agency (IDA) was created for the purpose of creating employment opportunities for, and to promote the general prosperity and economic welfare of the residents of the City of Newburgh. The IDA offers economic incentives and benefits to qualified applicants who wish to locate or expand their businesses or facilities in. When the IDA approves a project, it enters into agreements to extend these incentives and benefits to the applicant. The IDA believes in promoting a skilled workforce by way of encouraging apprenticeship programs. To that end, all IDA project sub-contractors (expressly excepting the prime or general contractor) must be enrolled in a New York State certified apprenticeship program (“Certified Contractor”). Further to that end, each subcontractor will have a graduation success rate between 60-75%. However, the IDA recognizes that the use of a Certified Contractor may not be possible for the following reasons:

- 1) Warranty issues related to installation of specialized equipment whereby the manufacturer requires installation by only approved installers; unless local labor cannot be trained or certified in a timely manner;
- 2) Specialized construction is required and no Certified Contractor in the Orange County/Mid-Hudson Region has the required skills, certifications or training to perform the work;
- 3) Cost Differential: a. For projects whose project cost exceeds \$15 million, significant cost differentials in bid prices whereby the use of a Certified Contractor significantly increases the sub-contract or contract of a particular trade or work scope by at least 20%. Every reasonable effort should be made by the applicant and or the applicant’s contractor to get below the 20% cost differential including, but not limited to, communicating and meeting with local construction trade organizations, such as the Laborers Local 17, Ironworkers Local No. 417 and other local Contractor Associations; b. For projects whose project cost is less than \$15 million significant cost differentials in bid prices whereby the use of the Certified Contractor significantly increases the sub-contract or contract of a particular trade or work scope by 10% or more. Every reasonable effort should be made by the applicant and or the applicant’s contractor to get below the 10% cost differential including, but not limited to, communicating and meeting with local construction trade organizations, such as Laborers Local 17, Ironworkers Local No. 417 and other local Contractor Associations;
- 4) No Certified Contractor is available for the project;

5) Compliance with the policy hinders the applicant's ability to comply with the Agency's local labor policy; and

6) Any reason which the Board of Directors of the IDA determines, in its sole and absolute discretion, is in the best interest of the City of Newburgh and its residents.

The request to secure an exemption for use of a Certified Contractor must be received in writing from the applicant detailing one or more of the reasons referenced above. The request will be reviewed by the Executive Director who shall refer the request to the IDA Board of Directors, which will approve or disapprove the request. A duly designated IDA monitor ("Monitor") shall issue a report to the Executive Director relative to compliance with this policy who shall share such information with the IDA Board of Directors. All applicants have a duty to cooperate with the Monitor. All costs of the Monitor shall be the obligation of the applicant. To foster pre-apprenticeship programs, the IDA shall also dedicate \$50,000 to fund pre-apprenticeship programs operating in the City of Newburgh and Orange County which provide disadvantaged individuals training and exposure to various trades ("pre-apprenticeship programs"). Beginning on the effective date of this policy, the IDA shall also set aside 10% of each Agency fee received for such designated pre-apprenticeship programs ("pre-apprenticeship fund"). The IDA shall remit the pre-apprenticeship fund proceeds to its designated pre-apprenticeship programs in its discretion. The pre-apprenticeship programs receiving such funds shall be designated annually by the IDA Board of Directors. If a violation of the policy has occurred, the Executive Director shall notify the applicant in writing and give such applicant a warning of such violation. In the event there is a subsequent violation of the policy, the Executive Director shall bring such information to the IDA Board of Directors which may, in its discretion, take action to revoke or recapture IDA benefits.

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

Whistle-Blower Protection/Code of Conduct Policy

In keeping with the policy of maintaining the highest standards of conduct and ethics, the City of Newburgh Industrial Development Agency (the “agency”) will investigate any suspected Fraudulent or Dishonest Conduct by an employee, board member, or agent of the agency. The agency is committed to maintaining the highest standards of conduct and ethical behavior and promotes a working environment that values respect, fairness and integrity. All employees, board members, and agents shall act with honesty, integrity and openness in all their dealings as representatives for the organization. Failure to follow these standards will result in disciplinary action including possible termination of employment, dismissal from one’s board or agent duties, and possible civil or criminal prosecution if warranted.

Employees, board members, consultants and agents are encouraged to report suspected acts of Fraudulent or Dishonest Conduct by an employee, board member, or agent of the agency (i.e. to act as “Whistle-Blower”) pursuant to the procedures set forth below.

Reporting

A person’s concerns about suspected acts of Fraudulent or Dishonest Conduct by an employee, board member, or agent of the agency should be reported to the Chief Executive Officer of the agency. If for any reason a person finds it difficult to report his or her concerns to the Chief Executive Officer, the person may report the concerns directly to any Board Member. Alternately, to facilitate reporting of suspected violations where the reporter wishes to remain anonymous, a written statement may be submitted to any one of the individuals listed above.

Definitions

Baseless Allegations: Allegations made with reckless disregard for their truth or falsity. People making such allegations may be subject to disciplinary action by the agency, and/or legal claims by individuals accused of such conduct.

Fraudulent or Dishonest Conduct: The act of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by an employee, board member, or agent of the agency, including a deliberate act or failure to act with the intention of obtaining an unauthorized benefit. Examples of such conduct include, but are not limited to:

- forgery or alteration of documents;
- unauthorized alteration or manipulation of computer files;
- fraudulent financial reporting;
- pursuit of a benefit or advantage in violation of the agency’s Conflict of Interest Policy;
- misappropriation or misuse of the agency’s resources, such as funds, supplies, or other assets;

- authorizing or receiving compensation for goods not received or services not performed;
- authorizing or receiving compensation for hours not worked; and
- The violation of any law, rule, or regulation.

Law, Rule or Regulation: Any duly enacted statute, or ordinance or any rule or regulation promulgated pursuant to any federal, state or local statute or ordinance.

Public Body: includes the following:

- the United States Congress, any state legislature, or any popularly elected local governmental body, or any member or employee thereof;
- any federal, state, or local judiciary, or any member or employee thereof, or any grand or petit jury; and
- any federal, state, or local law enforcement agency, prosecutorial office, or police or peace office.

Retaliatory Personnel Action: The discharge, suspension or demotion of an employee, or other adverse employment action taken against the employee in the terms and conditions of employment, including but not limited to, threats of physical harm, loss of job, punitive work assignments, or impact on salary or fees.

Whistle-Blower: An employee, consultant, or agent who informs the Chief Executive Officer, any board member, or Public Body pursuant to the provisions of this policy about an activity relating to the agency which that person believes to be fraudulent or dishonest conduct.

Rights and Responsibilities

Supervisors

The Chief Executive Officer is required to report suspected fraudulent or dishonest conduct to the Chair of the Board.

Reasonable care should be taken in dealing with suspected fraudulent or dishonest conduct to avoid:

- Baseless allegations;
- Premature notice to persons suspected of fraudulent or dishonest conduct and/or disclosure of suspected fraudulent or dishonest conduct to others not involved with the investigation; and
- Violations of a person’s rights under law.

Due to the important yet sensitive nature of the suspected fraudulent or dishonest conduct, effective professional follow-up is critical. The Chief Executive Officer, while appropriately concerned about “getting to the bottom” of such issues, should not in any circumstances perform any investigative or other follow up steps on his or her own. Accordingly, when the Chief Executive Officer becomes aware of suspected fraudulent or dishonest conduct he or she:

- should not contact the person suspected of fraudulent or dishonest conduct to further Investigate the matter or demand restitution;
- should not discuss the case with attorneys, the media, or anyone other than the members of the Board; and
- should not report the case to an authorized law enforcement officer without first discussing the case with the members of the Board.

Investigation

All relevant matters, including suspected but unproved allegations of fraudulent or dishonest conduct, will be reviewed and analyzed, with documentation of the receipt, retention, investigation and treatment of the complaint. Appropriate corrective action will be taken, if necessary, and findings will be communicated back to the reporting person, if appropriate. Investigations may warrant investigation by an independent person/entity such as auditors and/or attorneys.

Whistle-Blower Protection

The agency will protect Whistle-Blowers pursuant to the guidelines set forth below.

- The agency will use its best efforts to protect Whistle-Blowers against all Retaliatory Personnel Actions. Whistle-Blowing complaints will be handled with sensitivity, discretion, and confidentiality to the extent allowed by the circumstances and the law. Generally, this means that Whistle-Blower complaints will only be shared with those who have a need to know so that the agency can conduct an effective investigation, determine what action to take based on the results of any such investigation, and in appropriate cases, with law enforcement personnel. (Should disciplinary or legal action be taken against a person or persons as a result of a Whistle-Blower complaint, such persons may also have right to know the identity of the Whistle-Blower.);
- Employees, board members, consultants, and agents of the agency may not engage in any Retaliatory Personnel Action against a Whistle-Blower for (i) disclosing or threatening to disclose to the Chief Executive Officer or a board member, as applicable, any activity which that person believes to be fraudulent or dishonest conduct, or (ii) objecting to or refusing to participate in any fraudulent or dishonest conduct. Whistle-Blowers who believe that they have been the victim of a Retaliatory Personnel Action may file a written complaint with the Chief Executive Officer or board member, as applicable. Any complaint of a Retaliatory Personnel Action will be promptly investigated and appropriate corrective measures taken if such allegations are substantiated. This protection from Retaliatory Personnel Action is not intended to prohibit supervisors from taking action, including disciplinary action, in the usual scope of their duties and based on valid performance-related factors;
- Employees, board members, consultants, and agents of the agency may not engage in any Retaliatory Personnel Action against a Whistle-Blower for (i) disclosing, or threatening to disclose to a public body any activity which that person believes to be fraudulent or dishonest conduct, or (ii) providing information to, or testifying before,

any public body conducting an investigation, hearing, or inquiry into any such fraudulent or dishonest conduct provided, however, that Whistle-Blowers who disclose or threaten to disclose any fraudulent or dishonest conduct to a public body are not covered under this policy unless he or she first brings the allegation of fraudulent or dishonest conduct to the attention of the Chief Executive Office or board member, as applicable, and has afforded the agency a reasonable opportunity to correct and or remedy such fraudulent or dishonest conduct; and

- Whistle-Blowers must be cautious to avoid baseless allegations.

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

Uniform Tax Exempt Policy (UTEP)

Adopted: [DATE]

Any qualified applicant that receives any financial assistance from the Agency will have signed an acknowledgement that their application and any attachments, will be made public on the IDA's web site pursuant to the State's Freedom of Information Law.

SECTION 1 – Mission and Overview

1A. City of Newburgh Industrial Development Agency Mission

The mission of the City of Newburgh Industrial Development Agency is to help attract and contribute to: Newburgh's job opportunities, a diverse and net positive tax base to provide long term economic prosperity and sustainability, and advance the general welfare and standard of living for the city and its residents through the promotion, development, encouragement, and assistance of industrial, manufacturing, warehousing, commercial, technology, tourism initiatives, and recreational facilities, utilizing Green practices and adaptive re-use where available.

1B. Statutes Authorizing IDAs and UTEPs

Pursuant to the authority vested in it by Article 18-A of the General Municipal Law of the State of New York, the City of Newburgh Industrial Development Agency ("agency") may provide financial assistance to qualified applicants for qualified projects in the form of issuance of its tax-exempt or taxable bonds or by participation in straight-lease transactions. The Agency has adopted this Uniform Tax Exempt Policy to provide guidelines for the claiming of real property, sales and use tax, and mortgage recording tax abatements (collectively, "Financial Assistance").

1C. Policy

The policy of the Agency is to grant applicants requested Financial Assistance as described below. The Agency may, as part of its standard policy, grant enhanced benefits on a case-by-case basis, after following the process for deviation as outlined below, for projects expected to have a significant economic impact on the City, as determined by the Agency's members. The Agency acknowledges that previous models of development (e.g. heavy manufacturing projects) may no longer be likely in the City, but the Agency can assist in achieving other development goals such as commercial, retail, and adaptive reuse projects, among others, which might be a better fit for the City's modern economic, land use, and zoning landscape as a diverse urban community.

The goal of this UTEP is to support and assist in the implementation of projects that have been reviewed by the City's boards and committees. Any project receiving consideration for Financial Assistance must assist in the growth of our region to strengthen the local economy and provide opportunities for all City residents.

1D. Program Objectives

The purpose of the Agency is to serve as an economic development tool—often in conjunction with other financing and economic development programs—to provide support to projects for industrial, commercial, research, qualified retail, educational, health-related, tourism, cultural and other businesses, including

movie production businesses, in order to offer economic incentives to City of Newburgh businesses. It furthermore seeks to stimulate desirable and diverse economic development in the City in order to create and retain quality employment opportunities and to strengthen the local tax base for long term sustainability. Its support consists of serving as a vehicle for medium and long term financial assistance for capital projects through the issuance of tax exemptions, abatements and bonds as outlined below. Eligible costs include: acquisition, construction, expansion, rehabilitation, and purchase of furniture, fixtures, and equipment required to fully equip the proposed project.

1E. Financial Assistance

IDAs provide four basic forms of financial assistance (collectively, “Financial Assistance”) through tax incentives to qualified applicants in order to promote the economic welfare, prosperity and recreational opportunities for residents of the municipality:

1. Mortgage recording tax exemption;
2. Sales and use tax exemption (as related to the construction of a Project);
3. Real property tax reduction via a payment-in-lieu-of-taxes (“PILOT”) phased in to full assessment over the duration of the Project term; and
4. Lower interest rates for debt incurred as part of a manufacturing project via the issuance of Industrial Revenue Bonds (IRBs).

All four instruments will be evaluated to assist the Agency in optimizing the incentive package not solely for the applicant, but also for the City (e.g., sales tax exemption may be less costly than a PILOT; mortgage recording tax exemption may be less costly to City than other incentives but still offer value to an applicant).

SECTION 2 – Standard Incentive Program for Commercial Development

2A. Eligible Project Types

The Agency will consider only applications for projects consistent with statutory authorization, and this UTEP, and which are aligned with the following minimum standards:

- Industrial
 - Minimum job creation of 10 FTEs.
 - Exclusion: Drop/ship warehousing is not eligible.
- Commercial
 - Research & Development
 - Qualified Retail
 - Requirement: Must comply with an IDA retail exemption under New York State General Municipal Law
 - Movie production and related facilities
 - Exclusion: Commercial housing is not eligible. However, applicants can seek financial assistance for eligible commercial components of mixed-use projects.

The Agency will not consider applications for any housing projects (i.e., low-income housing, workforce housing, or market-rate housing) except with respect to the commercial portion of mixed-used projects as referenced above.

2B. Priority Sectors

- Cannabis-related businesses
- Cultural resources and amenities that promote and/or provide access to the arts, culture, or history
- Tourism destinations and lodging
 - Requirement: Must comply with an IDA retail exemption under New York State General Municipal Law
 - Requirement: Only lodging that is subject to occupancy tax is eligible

2C. Priority Project Outcomes

- Adaptive reuse of vacant or underutilized buildings
- Direct (on site) job creation equal to or greater than 50 FTEs within 3 years of construction completion
- Direct (on site) job creation equal to or greater than 25 FTEs within 3 years of construction completion IF at least 75% of the jobs created pay a living wage for an Orange County household that includes two working adults and one child, as calculated by the MIT Living Wage Calculator (<https://livingwage.mit.edu/>) at the time of application. The MIT Living Wage Calculator is not available, the Agency board may elect to use different tool or formula.
- Anticipated net positive revenue generation - beyond property tax/PILOT revenue - in excess of \$100,000 annually by year 5 after construction completion. Such revenue could be in the form of occupancy tax, sales tax, cannabis-related taxes and fees, or any other tax or fee that would benefit the affected taxing jurisdictions.

2D. Standard Incentive Program Criteria

In making the discretionary decision to provide any Financial Assistance, the Agency will first consider the following criteria to determine if the requirements of the standard incentive program have been met:

1. An assessment by the Agency of all material information included in connection with the Agency's Uniform Application for Financial Assistance, as necessary to afford a reasonable basis for the decision by the Agency to provide financial assistance for the Project.
2. A written cost-benefit analysis by the Agency that assesses and identifies the extent of the following factors related to the Project:
 - a. the creation and retention of permanent, private sector jobs (primary and secondary);
 - b. the estimated value of any tax exemptions to be provided;
 - c. the amount of private sector investment generated or likely to be generated by the proposed Project;
 - d. the likelihood of accomplishing the proposed Project in a timely fashion;
 - e. an estimated value of any other benefits that the City or other public entities may be providing;
 - f. additional sources of NET Positive revenue to the affected taxing jurisdictions; and
 - g. any other public benefits that might occur as a result of the Project.
3. Whether Financial Assistance is required to induce the Project and "but for" such assistance, the Project could not move forward, or a statement from the applicant as to why the Agency should provide Financial Assistance.
4. The impact of the proposed Project on existing and proposed businesses and economic development projects in the vicinity, including the extent to which the project provides additional childcare services in the community.
5. The effect of the proposed Project on the environment.

6. The impact of the proposed Project on municipal services, including, but not limited to, addition of school age children, transportation, police, emergency medical or fire services, DPW, etc.
7. The financial feasibility of the Project.
8. Public support for, or opposition to, the proposed Project.

2E. Additional Project Evaluation Considerations

In addition to the Standard Incentive Program Criteria stated above, the Agency will consider the following variables when evaluating qualified projects:

- Fulfillment of a need within or contribution to a surrounding neighborhood, community and/or existing uses/structures
- Historic appropriateness
- Incorporation of green practices
- Adaptive Reuse -
 - Architectural significance
 - History in the community and age of the building
 - Barriers to development
 - Amount of time the building has been vacant, underutilized, or underperforming on the tax rolls
 - Whether reuse of the building will involve environmental remediation costs
- Financial and long-term health/sustainability of the Project.

2F. General Financial Information Necessary to Apply

- Composition of applicant's current real estate portfolio at the time of pre-application (including type of project and number of square feet or units owned and/or managed).
- Applicant's recent history in obtaining financing commitments for real estate development projects, detailing type of project, financing source and amounts committed.
- Bank references for the applicant and financial equity partner.
- Financial statements for the past three (3) years prior to the time of pre-application from the applicant and each participating principal, partner, or co-venturer that includes the value of assets each participant would contribute to the applicant and verifications that such assets are available. The financial statement may also include any additional information that will be useful in evaluating the applicant's financial reliability and past ability to finance projects. (If audited financial statements are not available, please provide certified financial statements. All statements, audited or certified, should be in accordance with generally accepted accounting principles consistently applied).
- For applicant and its development team, a statement regarding any debarments, suspensions, bankruptcy or loan defaults on real estate development projects and/or government contracts.
- A statement describing the expected equity requirements and sources, the anticipated sources of working capital, and the anticipated sources for financing the project, including its construction.

2G. Underwriting & Independent Verification

Applicants shall be required to provide documentation such as bank commitment letters to show financial stability and real estate appraisals for expert and independent opinions.

SECTION 3 – Financial Assistance Tools

3A. Mortgage Recording Tax Exemption

State law provides that mortgages recorded by the Agency are exempt from mortgage recording taxes imposed pursuant to Article 11 of the Tax Law. The Agency has a general policy of abating mortgage recording taxes for Applicants under the following circumstance:

1. Initial financing from the Agency with respect to which Agency issues debt secured by a mortgage upon real property;
2. In instances where the initial financing commitment provides for a construction financing of the Agency to be replaced by a permanent financing of the Agency immediately upon the completion of the Project, the Agency's general policy is to abate the mortgage recording tax on both the construction financing and the permanent financing.
3. Refinancing of prior debt issued by the Agency, and on any modifications, extensions and renewals thereof, so long as the Agency fees relating to same have been paid.

3A1. Non-Agency Financings — With respect to straight lease or installment sale transactions where the Project occupant needs to borrow money for purposes relating the Project, and the lender will not make the loan to the Project occupant without obtaining a fee mortgage as security, the policy of the Agency is to consent to the granting of such mortgage and to join in such mortgage, so long as the following conditions are met:

1. The documents relating to such proposed mortgage make it clear that the Agency is not liable on the debt, and that any liability of the Agency on the mortgage is limited to the Agency's interest in the Project;
2. The granting of the mortgage is permitted under any existing documents relating to the Project, and any necessary consents relating thereto have been obtained by the Project occupant; and
3. Payment of the Agency fee relating to the total Project cost.
4. Reverter if default (see “Recapture” Section 6)

3A2. Exemption Affidavit — The act of granting a mortgage recording tax exemption by the Agency is confirmed by the execution by an authorized officer of the Agency of an exemption affidavit relating thereto.

3A3. PILOT Payments — If the Agency is a party to a mortgage that is not to be granted a mortgage recording tax exemption by the Agency (a “non-exempt mortgage”) then the applicant and/or Project occupant shall pay the same mortgage recording taxes with respect to same as would have been payable had the Agency not been a party to said mortgage (the “normal mortgage tax”). Such mortgage recording taxes are payable to the County Clerk, who shall in turn distribute same in accordance with law.

If for any reason a non-exempt mortgage is to be recorded and the Agency is aware that such non-exempt mortgage may for any reason be recorded without the payment of the normal mortgage tax, then the Agency shall prior to executing such non-exempt mortgage collect a PILOT payment equal to the normal mortgage tax and remit same within thirty (30) days of receipt by the Agency to the affected tax jurisdiction in accordance with Section 874(3) of the Act.

3B. Sales and Use Tax Exemption

State law provides that purchases of tangible personal property by the Agency or by an agent of the Agency, and purchases of tangible personal property by a contractor for incorporation into, or improving, maintaining, servicing or repairing real property of the Agency, are exempt from sales and use taxes imposed pursuant to Article 28 of the Tax Law.

The Agency has a general policy of abating sales taxes applicable only to the initial acquisition, construction, reconstruction and/or equipping of each Project with respect to which the Agency grants financial assistance.

3B1. General — The Agency has no requirement for imposing a payment-in-lieu-of-tax arising from the exemption of a Project from sales and/or use taxes applicable to the initial acquisition, construction and/or equipping of such Project, except

In the circumstance where (a) a Project is offered sales tax exemption on the condition that a certain event (such as the issuance of bonds by the Agency with respect to the Project) occur by a certain date, and (b) such event does not occur, in which case the Agency may require that the Applicant make payments in lieu of sales tax to the New York State Department of Taxation and Finance.

3B2. Period of Exemption — Except as set forth in subsection (A) above, the period of time for which a sales tax exemption shall be effective (the "Tax Exemption Period") shall be determined as follows:

1. **General** — Unless otherwise determined by the Agency, the tax exemption for sales and use taxes shall be for the Tax Exemption Period commencing with the issuance by the Agency of bonds, notes or other evidences of indebtedness with respect to the Project, or the execution and delivery by the Agency of a lease agreement relating to such Project, and ending on the date of completion of the Project.
2. **Early Commencement** — The Tax Exemption Period may, at the discretion of the Agency, commence earlier than the date of issuance by the Agency of the Agency's bonds, notes or evidences of other debt relating to the Project or the execution and delivery by the Agency of a lease agreement relating to the Project, provided that:
 - (a) The Agency has complied with the requirements of Section 859-of the Act,
 - (b) The Agency thereafter adopts a resolution determining to commence such period earlier,
 - (c) The Applicant or Project occupant agrees to the conditions of such resolution and supplies to the Agency the materials required to be supplied to the Agency thereunder, and
 - (d) The Chairman or Executive Director of the Agency acknowledges satisfaction of all conditions to the granting of such tax exemption set forth in such resolution.
3. **Normal Termination** — The Tax Exemption Period will normally end upon the completion of the Project. On construction Projects, the Agency and the Applicant shall agree on the estimated date of completion of the Project, and the sales and use tax exemption shall cease on the earlier of
 - (a) The actual date of completion of the Project, or

(b) The date which is six (6) months after the estimated date of completion of such Project. On non-construction Projects, the Agency and Applicant shall agree on the estimated date of completion of the Project, and the sales and use tax exemption shall cease on the earlier of

(i) The actual date of completion of the Project, or

(ii) The date which is three (3) months after the estimated date of completion of the Project.

If the Agency and the Applicant shall fail to agree on a date for completion of the Project, the Agency shall on notice to the Applicant make the determination on the basis of available evidence.

4. Later Termination — The Agency, for good cause shown, may adopt a resolution extending the period for completion of the Project and/or extending the Tax Exemption Period.
5. Items Exempted — The sales and use tax exemption granted by the Agency shall normally extend only to the following items acquired during the Tax Exemption Period described in subsection (B) above:
 - a. Items incorporated into the real property;
 - b. The rental of tools and other items necessary for the construction and/or equipping of the Project, if rented as by Applicant as agent of the Agency;
 - c. Tangible personal property, including furniture, furnishings and equipment used to initially equip the Project or otherwise forming part of the Project, if purchased by Applicant as agent of the Agency; and
 - d. Office supplies, fuel and similar items consumed in the process of acquiring, constructing and/or equipping the Project, if purchased by Applicant as agent of the Agency.

3B3. Items Not Exempted — A sales and use tax exemption with respect to an Applicant shall not be granted for the following:

1. Purchases occurring beyond the tax exemption period described in subsection (B) above;
2. Repairs, replacements or renovations of the Project, unless such repairs, replacements or renovations constitute major capital-type expenses approved by the Agency as a separate Project in the manner contemplated by the Act; or
3. Operating expenses, unless such operating expenses constitute major capital-type expenses approved by the Agency as a separate Project in the manner contemplated by the Act.

3B4. Percentage of Exemption — Unless otherwise determined by resolution of the Agency, the sales and use tax exemption shall be equal to one hundred percent (100%) of the sales and/or use taxes that would have been levied if the Project were not exempt by reason of the Agency's involvement in the Project. If an exemption of less than one hundred percent (100%) is determined by the Agency for any reason, such as in the case of a single project which contains both permitted and non-permitted IDA abated uses, creating a percentage of IDA "Exemption", then the Applicant shall be required to pay a PILOT to the Agency equal to the applicable percentage of sales and/or use tax liability not being abated. The Agency shall remit such PILOT within thirty (30) days of receipt by the Agency to the Affected Tax Jurisdictions in accordance with Section 874(3) of the Act.

3B5. Appointment as Agency Agent — The final act of granting a sales and/or use tax exemption by the Agency shall be confirmed by the appointment of the Project owner (the "Owner") as Agency agent, with the authority to purchase Project-related property and services using the

Agency's sales tax exemption. The Agency must file Form ST-60 with the New York State Department of Tax and Finance within 30 days after the appointment.

The Owner must notify the Agency of each sub-agent appointment, so the Agency can sign the required Form ST-60 for the sub-agent. Contractors and subcontractors who have not been appointed Agency agent or sub-agent cannot use the sales tax exemption for equipment rentals, tools, supplies, and other items that do not become part of the finished project. All Project contractors and subcontractors must be appointed as agent or subagent of the Agency in order to use the sales tax exemption for Project-related purchases. Owners and other properly appointed Agency agents and sub-agents claim the sales tax exemption for all purchases by giving their vendors Form ST-123. All bills, invoices and other documents for Project-related purchases by Agency agents and sub-agents should specifically indicate the purchase is made as agent of the Agency (i.e., name of purchaser is "ABC Company, as agent of the Schenectady County IDA").

3B6. Required Filings — The New York State Department of Taxation and Finance requires that all Agency agents and sub-agents Owner file Form ST-340 with the Department and the Agency on or before the last day of February each year. The ST-340 reports the amount of Agency sales tax exemptions claimed for the prior calendar year. The Owner's agreements with its contractors and subcontractors should require the contractors and subcontractors to provide the annual information regarding the amount of sales tax exemptions claimed.

3C. Real Property Tax Abatement

In New York State, property owners pay a real property tax based on the assessed value of the land and of the improvements to a site. Any real property owned or controlled by an IDA is not subject to ad valorem real property taxes. However, real property owned or controlled by an IDA continues to be subject to special assessments and user fees. When an IDA takes title to or a leasehold interest in real property, the property becomes 100% exempt from ad valorem real property taxes. To accommodate the needs of the local taxing jurisdictions, however, the Agency generally negotiates a Payment-In-Lieu-Of-Tax Agreement ("PILOT Agreement") with the applicant, sometimes taking into consideration the percentage of exemption exception above. Each Project receiving an abatement will be subject to a PILOT Agreement in a form acceptable to the Agency. The Agency will then direct, or receive and forward, these payments-in-lieu-of-taxes ("PILOT") to the affected taxing jurisdictions.

IDAs generally limit the period an exemption is in effect so as to provide the minimum amount of certainty and stability needed for a project to become self-sustaining, at which point the project will become part of the full tax paying rolls for the benefit of the municipalities' economic sustainability, per the IDA's mission. It is not the purpose of a PILOT to provide long term exemption from the reality of the municipality's tax needs. In all cases, the project's PILOT term results in a net increase in the project site's contribution to the municipalities' revenue.

The Agency may require the establishment of a PILOT mortgage ("PILOT Mortgage") as a condition in order to secure the position of the PILOT payments versus other secured and unsecured claims. The purpose of a PILOT Mortgage is to secure unpaid PILOT payments with a lien against the real estate, thus making the PILOT Agreement a secured obligation. The Agency may negotiate alternative forms of collateral to insure payments, such as reverters (see "Recapture" section), under the PILOT Agreement.

3C1. Terms

1. **Period of Exemption:** Unless otherwise approved by the Agency, the period of exemption available is ten (10) years for eligible commercial projects or fifteen (15) years for projects within Priority Sectors and/or having Priority Project Outcomes as outlined in Section 2.
2. **Level of Exemption:** In each year during the period of exemption, the project will make payments equal to the full property taxes due on the “base assessment” of the property prior to project-related improvements, plus an abated amount of the property taxes on the improvement value of the project in alignment with the percentages in the PILOT Schedule Table below. The “base assessment” of the property is determined based upon the assessed value at the time that the application is submitted to the Agency.
3. **Construction Term:** The period of exemption shall begin after a Construction Term of up to three (3) years, to be determined by the Agency based on the construction timeline provided in the application. During the Construction Term, the project will pay an amount equal to the amount of full property taxes on the “base assessment”.
4. **PILOT Schedule Table:**

PILOT Schedule Table

Year	Standard Project	Priority Sector or Outcome
Construction (up to 3 years)	0%	0%
1	100%	100%
2	90%	100%
3	80%	90%
4	70%	90%
5	60%	90%
6	50%	80%
7	40%	80%
8	30%	80%
9	20%	70%
10	10%	60%
11		50%
12		40%
13		30%
14		20%
15		10%

The Agency’s basic policy provides for a graduated schedule of abatement applicable to County, City and School ad valorem real property taxes. The Agency will consider project factors when determining the amounts to be paid under the PILOT Agreement but in no event will the payments under the PILOT Agreement be less in amount than the aggregate County, City and School taxes owed immediately prior to entering into the PILOT Agreement. The Agency reserves the right in its sole discretion to refuse to grant any abatement of County, City and School taxes and to require payments under the PILOT Agreement equal to one hundred percent (100%) of the amount that would otherwise be due and payable for County, City and School taxes.

As noted above, the PILOT Agreement does not provide any exemptions for special district taxes or other fees that may be levied on tax bills. The Agency reserves the right to deviate from this structure as provided by the statute and as laid forth below in Section 5.

SECTION 4 - TRANSFERS OF PAYMENT-IN-LIEU-OF-TAX (“PILOT”) AGREEMENTS

The Agency may consider the assignment of a PILOT upon the submission of a complete application of the new applicant and a new public hearing being held.

SECTION 5 - PILOT DISCOUNT (“DEVIATION”)

5A. PILOT Discount (“Deviations”)

The Agency may, in accordance with this Section 5 and Section 874 of the IDA Act, deviate from the standard policy with respect to the number of years for a PILOT and its amount on a case-by-case basis to provide enhanced benefits for a project expected to have significant impact in the locality where the project will be located. Any deviation from the guidelines set forth above requires the written notification by the Agency to the chief executive officer of each affected tax jurisdiction. The Agency considers the following factors in making such determination, no single one of which is determinative:

1. The nature of the proposed project (e.g., manufacturing, commercial, civic);
2. The nature of the property before the project begins (e.g., vacant land, vacant buildings, brownfield);
3. The economic condition of the area at the time of the application;
4. The extent to which a project will create or retain permanent, private-sector jobs;
5. The estimated value of tax exemptions to be provided;
6. The impact of the project and the proposed tax exemptions on affected tax jurisdictions;
7. The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity;
8. The impact of the proposed project on municipal services, including, but not limited to, the addition of school age children, transportation, police, emergency medical or fire services, DPW;
9. The amount of private sector investment generated or likely to be generated by the proposed project;
10. The likelihood of accomplishing the proposed project in a timely fashion;
11. The effect of the proposed project upon the environment;
12. The development, redevelopment, betterment, and more complete use of existing "downtown", underdeveloped land, historic district, and blighted areas;
13. The type of development- Retail, office, manufacturing, commercial, Transit Oriented Development or any development providing the highest and best use for positive tax ratables;
14. The creation of tourism or cultural destinations;
15. Development that includes Adaptive Re-use/Infill/Revitalization of vacant or underutilized properties;
16. Development of architecturally and historically significant properties;
17. The extent to which the proposed project will provide additional sources of NET Positive revenue for municipalities and school districts in which the project is located;
18. The extent to which the proposed project will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the project is located;
19. The extent to which the project will utilize to the fullest extent practicable and economically feasible, resource conservation, energy efficiency, green technologies, and alternative and renewable energy measures

Any deviations from the Agency’s standard policy will be made only with the specific approval of its members based on the factors listed in this Section 5 and those, if any, described in Section 874 of the

IDA Act. The Agency will set forth in writing its reasons for approving any deviation and will notify the affected taxing jurisdictions of the proposed deviation from such policy and the reasons therefor.

5B. Cost-Benefit Analysis

In the event of a proposed increase in the amount or terms of its financial assistance, the Agency will review and conduct its own cost-benefit analysis to determine the need for any such deviation and total PILOT value, which shall include:

- Financial documentation including a comparison of the Project’s performance under the standard abatements described in the “PILOT Schedule Table” vs. proposed abatement;
- An explanation of the financial assumptions used in the analysis;
- Operational budget vs. capital cost of project;
- Additional documentation relating to whether “but for” such assistance, the Project could not move forward; and
- Public infrastructure costs and impacts (e.g., school district).

SECTION 6 – RECAPTURE OF BENEFITS GUIDELINES

The Agency, for each project seeking financial assistance, will require the project applicant to agree to the recapture by the Agency of the value of any or all exemptions from taxation granted with respect to the project by virtue of the Agency’s involvement. Events that the Agency may determine will trigger recapture may include, but shall not be limited to, the following:

6A. Recapture Trigger Events

1. Sale or closure of facility;
2. Departure of the business or organization from the City;
3. Significant change in use of facility;
4. Significant employment reduction;
5. Significant change in business activities of project applicant or operator; or
6. Material non-compliance with or breach of terms of Agency transaction documents.
7. Failure to respond to Agency inquiries concerning payments of principal and interest;
8. Failure to respond to Agency inquiries concerning insurance coverage or failure to provide insurance certificates when and as required by the Agency transaction documents;
9. Failure to respond to Agency inquiries regarding payment of monies in lieu of taxes, insurance premiums;
10. Failure to comply with annual reporting requirements or provide the Agency with the requested information;
11. Failure to respond to Agency inquiries or failure to provide the Agency with any information or documents requested by the Agency in order to provide any federal, state or local Agency with information or reports required under any applicable law, rule or regulation;
12. Failure to provide any other information concerning the project or the project application or any project operator requested by the Agency.
13. Material noncompliance with or breach of terms and conditions of Agency transaction documents or breach of any zoning, land use or federal, state or local environmental laws or regulations, material obligations by the project occupant to the United States, New York State, any of its political subdivisions, the affected taxing jurisdictions in which obligations were imposed in connection with the Project;

14. Any reduction in taxes to the City or significant increase / deviation from projected net impact on city services in any given year, if any, that any such projected revenues and/or economic benefits are set forth in the PILOT Agreement or other Agency transaction documents;
15. Ceasing to be an eligible “project” under and as defined in the IDA Act;

Upon the occurrence of any of the events listed in this Section 6, the Agency will, upon at least ten (10) calendar days written notice to the project applicant, hold a hearing at which the project applicant will have the opportunity to provide, or explain its failure to provide, the information requested by the Agency. Within thirty (30) calendar days after the hearing, the Agency will issue a determination whether to terminate any ongoing financial assistance to a project applicant and to what extent it will require recapture of the value of tax exemptions granted with respect to the project by virtue of the Agency’s involvement.

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