

BROOKLYN MARINE TERMINAL DEVELOPMENT CORPORATION

CODE OF ETHICS FOR DIRECTORS AND OFFICERS

I. INTRODUCTION AND PURPOSE

The Board of Directors ("Board") of Brooklyn Marine Terminal Development Corporation (the "Corporation") has adopted this code of ethics ("Code") with respect to its directors and unsalaried officers (collectively, the "Directors"). This Code is intended to promote (a) honest and ethical conduct, including the proper handling of actual or apparent conflicts of interest between duties and loyalties to the Corporation and other personal and financial interests, and (b) full, fair and understandable disclosure in the periodic reports required to be filed and updated hereby. This Code provides examples of situations involving conflicts of interest and establishes disclosure procedures. It is vitally important to the public trust that both the fact and the appearance of conflicting interests and improper corporate conduct be avoided. Each Director will be expected to read and understand this Code and to review it periodically in order to be alert to situations that could create a conflict of interest or otherwise be contrary to the established policies of the Corporation.

II. GUIDELINES

A. Existence of an Interest.

A Director is deemed to be "interested" in cases in which the Director's personal and/or financial interest conflicts or may conflict with the interest of the Corporation. For example, a Director is deemed to be interested where the Director or relative is an officer, director, trustee, member, owner or employee of an entity:

- from which the Corporation purchases or proposes to purchase services or supplies.
- with which the Corporation contracts or proposes to contract.
- with which the Corporation negotiates or effects a transaction.
- that substantially benefits from a transaction that the Corporation negotiates or effects.
- that has a financial interest in any transaction, agreement or other arrangement in which the Corporation or any affiliate of the Corporation is a participant.

"Relatives" means the Director's (a) spouse or domestic partner as defined in NY Public Health Law §2994-a and (b) ancestors, brothers and sisters (whether whole or half blood), children (whether natural or adopted), grandchildren and great-grandchildren, and spouses

and domestic partners of the director's brothers, sisters, children, grandchildren and great-grandchildren.

"Owner" means a person who, together with the person's relatives, holds:

- a direct or indirect ownership or beneficial interest in an entity that exceeds 5% of the entity's equity,
- an equity investment in the entity of \$55,000¹ or more in cash or other form of commitments,
- 5% of the entity's indebtedness,
- \$55,000¹ or more of the entity's indebtedness, or
- managerial control or responsibility regarding any such entity,

provided that, in the case of:

- an entity (other than a partnership or professional corporation) in which the Director and his or her relatives in the aggregate do not have at least a 35% ownership or beneficial interest, and
- any partnership or professional corporation in which the Director and his or her relatives in the aggregate do not have a direct or indirect ownership or beneficial interest in excess of 5%,

A Director will not be considered to own interests held in any blind trust that holds or acquires an ownership interest or in any pension plan, deferred compensation plan or mutual fund, the investments of which are not controlled by the person and/or a relative or an entity in which the person and/or a relative is an owner.

A person has a beneficial ownership interest if the person directly or indirectly has or shares voting power and/or investment power or the right to acquire beneficial ownership within 60 days.

A Director shall not be deemed to be interested by virtue of his or her status as an officer, official or employee of the City of New York or New York City Economic Development Corporation.

B. Conduct When an Interest Exists.

When a Director is interested in a matter before the Board or a committee (each a "body"):

¹ This amount shall be automatically increased each time the dollar amount in the definition of "ownership interest" set forth in Rule 1-11 of the City's Conflicts of Interest Board is increased so as to equal the increased dollar amount set forth in the Rule

- if the Director is present at the meeting of the body at which the matter is considered, the Director must disclose all material facts concerning the interest to the body, including the nature and extent of the interest;
- a Director shall not participate in the Corporation's deliberations or vote on such a matter and must not attempt to influence the consideration, determination or approval of, or deliberations on, the matter on the part of the Corporation.

Nothing in this section shall prohibit the body from requesting that an interested Director present information concerning a matter at a meeting of the body prior to the commencement of deliberations or voting relating thereto.

A Director shall not engage in any transaction as representative of the Corporation with a business entity in which the Director has an interest.

A Director must disclose each interest held by the Director on an annual disclosure statement to the Secretary of the Corporation and must promptly update such disclosure in an amendment thereto in the event the Director becomes aware of an undisclosed interest.

C. Related Party Transactions.

The Corporation shall comply with the requirements of Section 715 of the Not-for-Profit Corporation Law ("N-PCL") with respect to related party transactions, as that term is defined in Section 102(a)(24) of the N-PCL (a copy of the current version of which and related definitions are attached hereto). The person interested in the related transaction shall submit to the Board (or an authorized committee thereof) all material facts concerning its interest and the Board must determine that the transaction is fair, reasonable, and in the Corporation's best interest, and shall consider alternative transactions to the extent available and document the basis for its approval.

D. Confidential and Inside Information.

Confidential information acquired by a Director in the course of his or her duties as a Director must be held in confidence and may not be used as a basis for personal gain by the Director, his or her relatives or others. Information relating to transactions pending with the Corporation is not to be given to any person unless it has been published or otherwise made generally available to the public by the Corporation. A Director must refrain from transmitting any information about the Corporation or its deliberations or decisions or any other information the Director obtained from the Corporation that might be prejudicial to the interests of the Corporation to any person other than in connection with the discharge of the Director's responsibilities, except to the extent the information is publicly available.

A Director must not accept employment or engage in any business or professional activity that will require him or her to disclose confidential information that he or she has gained by reason of his or her official position of authority.

E. Gratuities/Conduct.

A Director must not be placed under actual or apparent obligation to anyone by accepting, or permitting his or her relative to accept, gifts or other favors where it might appear that they were given for the purpose of improperly influencing the Director in the performance of his or her corporate duties. In addition, a Director should never use his or her official position to secure unwarranted privileges or exemptions; nor should a Director, by his or her conduct, give any reasonable basis for the impression that any person can improperly influence him or her or 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. Instead, a Director should endeavor to pursue a course of conduct that will not raise suspicion that he or she is likely to be engaged in acts that are in violation of his or her trust.

F. Prohibitions.

A Director shall not make personal investments in enterprises that he or she has reason to believe may be directly involved in unavoidable decisions to be made by him or her as a Director of the Corporation, or that will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest. Additionally, a Director is prohibited from accepting employment that unavoidably impairs his or her independence of judgment in the exercise of his or her service as a Director.

III. DISCLOSURE PROCEDURE

If at any time a Director is in doubt as to the proper application of this Code, the Director or should immediately make all the facts known to the General Counsel of the Corporation and be guided by the Counsel's instructions.

Each Director shall make the annual filings required of Directors under N.Y. Public Authorities Law § 2825(3).

Each Director must complete a disclosure statement in the form attached hereto promptly after his/her initial appointment and annually thereafter approximately at the time required for the filing by Directors of an annual financial disclosure statement pursuant to N.Y. Public Authorities Law § 2825(3). Such disclosure statement shall be updated promptly if the information in the disclosure statement changes. Such disclosure statement and updates shall be submitted to the Secretary and the General Counsel of the Corporation.

The Corporation's records, including related minutes, should document any "interest" disclosed to a Board or committee considering a matter.

IV. VIOLATIONS

If a Director violates any of the provisions of this Code, such Director shall be subject to an appropriate remedy under the circumstances. In addition to any penalty contained in any provision of law, the Director may be subject, at the Board's discretion, to removal for cause.

V. OFFICERS WHO ARE EMPLOYEES OF THE CORPORATION

Notwithstanding anything contained herein, if an officer is also an employee of the Corporation, that officer shall be subject to the restrictions set forth in Chapter 68 of the City Charter and not subject to this Code.

Relevant N-PCL Provisions on Related Party Transactions

Exhibit A

N-PCL § 715 – Related Party Transaction Requirements

§ 715. Related party transactions.

(a) No corporation shall enter into any related party transaction unless the transaction is determined by the board, or an authorized committee thereof, to be fair, reasonable and in the corporation's best interest at the time of such determination. Any director, officer or key person who has an interest in a related party transaction shall disclose in good faith to the board, or an authorized committee thereof, the material facts concerning such interest.

(b) With respect to any related party transaction involving a charitable corporation and in which a related party has a substantial financial interest, the board of such corporation, or an authorized committee thereof, shall:

(1) Prior to entering into the transaction, consider alternative transactions to the extent available;

(2) Approve the transaction by not less than a majority vote of the directors or committee members present at the meeting; and

(3) Contemporaneously document in writing the basis for the board or authorized committee's approval, including its consideration of any alternative transactions.

(c) The certificate of incorporation, by-laws or any policy adopted by the board may contain additional restrictions on related party transactions and additional procedures necessary for the review and approval of such transactions, or provide that any transaction in violation of such restrictions shall be void or voidable.

(d) Unless otherwise provided in the certificate of incorporation or the by-laws, the board shall have authority to fix the compensation of directors for services in any capacity.

(e) The fixing of compensation of officers, if not done in or pursuant to the by-laws, shall require the affirmative vote of a majority of the entire board unless a higher proportion is set by the certificate of incorporation or by-laws.

(f) The attorney general may bring an action to enjoin, void or rescind any related party transaction or proposed related party transaction that violates any provision of this chapter or was otherwise

not reasonable or in the best interests of the corporation at the time the transaction was approved, or to seek restitution, and the removal of directors or officers, or seek to require any person or entity to:

- (1) Account for any profits made from such transaction, and pay them to the corporation;
- (2) Pay the corporation the value of the use of any of its property or other assets used in such transaction;
- (3) Return or replace any property or other assets lost to the corporation as a result of such transaction, together with any income or appreciation lost to the corporation by reason of such transaction, or account for any proceeds of sale of such property, and pay the proceeds to the corporation together with interest at the legal rate; and
- (4) Pay, in the case of willful and intentional conduct, an amount up to double the amount of any benefit improperly obtained.

(g) The powers of the attorney general provided in this section are in addition to all other powers the attorney general may have under this chapter or any other law.

(h) No related party may participate in deliberations or voting relating to a related party transaction in which he or she has an interest; provided that nothing in this section shall prohibit the board or authorized committee from requesting that a related party present information as background or answer questions concerning a related party transaction at a board or committee meeting prior to the commencement of deliberations or voting relating thereto.

(i) In an action by any person or entity other than the attorney general, it shall be a defense to a claim of violation of any provisions of this section that a transaction was fair, reasonable and in the corporation's best interest at the time the corporation approved the transaction.

(j) In an action by the attorney general with respect to a related party transaction not approved in accordance with paragraphs (a) or (b) of this section at the time it was entered into, whichever is applicable, it shall be a defense to a claim of violation of any provisions of this section that (1) the transaction was fair, reasonable and in the corporation's best interest at the time the corporation approved the transaction and (2) prior to receipt of any request for information by the attorney general regarding the transaction, the board has: (A) ratified the transaction by finding in good faith that it was

fair, reasonable and in the corporation's best interest at the time the corporation approved the transaction; and, with respect to any related party transaction involving a charitable corporation and in which a related party has a substantial financial interest, considered alternative transactions to the extent available, approving the transaction by not less than a majority vote of the directors or committee members present at the meeting; (B) documented in writing the nature of the violation and the basis for the board's or committee's ratification of the transaction; and (C) put into place procedures to ensure that the corporation complies with paragraphs (a) and (b) of this section as to related party transactions in the future.

Exhibit B

N-PCL §§ 102(a)(23-25) – Definitions of “Related Party,” “Related Party Transaction,” and Related Term

(23) “Related party” means (i) any director, officer or key person of the corporation or any affiliate of the corporation; (ii) any relative of any individual described in clause (i) of this subparagraph; or (iii) any entity in which any individual described in clauses (i) and (ii) of this subparagraph has a thirty-five percent or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of five percent.

(24) “Related party transaction” means any transaction, agreement or any other arrangement in which a related party has a financial interest and in which the corporation or any affiliate of the corporation is a participant, except that a transaction shall not be a related party transaction if: (i) the transaction or the related party's financial interest in the transaction is de minimis, (ii) the transaction would not customarily be reviewed by the board or boards of similar organizations in the ordinary course of business and is available to others on the same or similar terms, or (iii) the transaction constitutes a benefit provided to a related party solely as a member of a class of the beneficiaries that the corporation intends to benefit as part of the accomplishment of its mission which benefit is available to all similarly situated members of the same class on the same terms.

(25) “Key person” means any person, other than a director or officer, whether or not an employee of the corporation, who (i) has responsibilities, or exercises powers or influence over the corporation as a whole similar to the responsibilities, powers, or influence of directors and officers; (ii) manages the corporation, or a segment of the corporation that represents a substantial portion of the activities, assets, income or expenses of the corporation; or (iii) alone or with others controls or determines a substantial portion of the corporation's capital expenditures or operating budget.

