



**OLYMPIC REGIONAL
NEW YORK
DEVELOPMENT AUTHORITY**

BOARD OF DIRECTORS MEETING

Olympic Center, Lake Placid, NY

May 11, 2020

11:00 am

AGENDA

I. INTRODUCTION

- A. Roll Call**
- B. Agenda Review**
- C. Approval of Minutes from April 15, 2020 Board Meeting**
- D. President's Report**

II. OLD BUSINESS

III. NEW BUSINESS

A. Resolutions

- **Resolution # 381 – Resolution Granting Approval for the President & CEO to Enter Into an Agreement for the Olympic Sports Complex Building Upgrades and Construction of the Mountain Coaster Buildings General Contract**
- **Resolution # 382 – Resolution Approving and Adopting a Whistleblower Policy Pursuant to Public Authorities Law § 2986**
- **Resolution # 383 – Resolution Approving and Adopting a Paid Family Leave Policy**

IV. ADJOURN



NYS Olympic Regional Development Authority
Board Meeting
April 15, 2020

Present: Art Lussi, Chair Pro Tem
Andy Lack, Vice Chair
Steve Hunt, ESD
Chris Pushkarsh, OPRHP
Bill Beaney
Cliff Donaldson
John Parete
Jill Broderick
Jeff Stefanko

Also Present: Mike Pratt, President/CEO
Michelle Crew, General Counsel

Introduction: Chair Pro Tem, Art Lussi called the meeting to order at 11:03 am and asked for a roll call to confirm a quorum was present.

Minutes: On a motion by John Parete, seconded by Andy Lack, the minutes of the Board of Directors meeting held on March 16, 2020 were approved with one correction by Art Lussi, page 2, under Executive Session, Art Lussi asked for a motion to go into Executive Session.

All in favor, motion carried unanimously.

President's Report: Mike Pratt reports the response by ORDA to the COVID19 threat has been very profound. We have been aggressive to protect our guest, closed our venues, confirmed sanitation, designated employees as essential or non-essential, working remotely as much as possible. Manuals in place documenting disinfection of facilities and securing facilities. IT team has been tremendously busy supporting efforts to work remotely. Talk to guest via emails, website updates, social media updates. Participated in drive for Ski Goggles for Doctors. Discussed what the new normal will be.

Efforts lead by Jackie Kelly and Rebecca Dayton, primarily initiated by David Allen and Brenda Alford, we have been manufacturing face masks at Mount Van Hoevenberg, making over 100 last week. Working with Essex County Emergency Management Department and Adirondack Medical Center and have supplied mask to the North Country Home Health Association. Building over 200 mask per week to supply to different health organizations and ORDA staff.

Worked remotely had conference calls lead by Peggy Evatt with the Bonadio Group preparing for our annual independent audit this year. We have secure tunnels and processes confirmed. We have the ability to identify if milestones or deadlines are being missed or slipping.



Noteworthy to mention that in 1,001 days we will be hosting the opening ceremony of the World University Games.

Lastly give the board an update on the efforts to rebuild the Mid Station Lodge at Whiteface Mountain. Working with the architects and engineering departments we awarded the steel package for supply and erection. Prioritized by the long lead time for materials. The next that was awarded was the foundation package. All but authorized site enabling contract for work roads and site work. Waiting on the administrative permit for the storm water pollution prevention plant. Working on the building envelope package. After that will be contracts for electrical, plumbing and mechanical. Ordered long lead time items required.

This project with many others have been impacted by COVID19. Carpenters seems to be the most impacted. Looking into multiple shifts. Working through the state channels tracking all our costs because ORDA is not quite eligible for Federal Stimulus package opportunities. Art Lussi asked about people that have been laid off concerning the eligibility drawing of \$600/week federal package. Mike stated there is no question about that.

Art Lussi asked if there were any question, and felt that was a very thoughtful report.

Mike stated that last summer the ski jumps were closed and Mount Van Hoevenberg was all but closed. This summer the Ski Jumps will open with a new ride, new elevator, and new zip line. Art asked about the new zip line. Mike stated we are looking into June for completion.

Jill Broderick asked about Mount Van Hoevenberg. Mike stated the site work is coming along as well as the mountain coaster installation has continued. The Lodge work has continued but has been impacted with the carpenters not being able to do inside stuff. So far has not impacted the schedule dramatically, but will soon when the electrical and plumbing to come in and stuff is not ready for them.

Bill Beaney asked about the Oval work. Mike stated the work done on the southern end is the retaining wall at the school that has been on going. Our work has not started yet. The next board meeting we should have details on the Olympic Center.

Old Business:

Correction of the minutes of the January 27, 2020 Board Meeting. Art Lussi asked for a motion to approve the corrected minutes. On a motion by Jill Broderick, Seconded by Andy Lack. All in favor, motion carries unanimously.

New Business:

Resolutions: Mike to give a brief description

#375 Granting Approval for the President & CEO to enter into an agreement for the Olympic Sports Complex – Site Upgrades



On a motion by Jeff Stefanko, seconded by Bill Beaney.

With site work laid a lot of conduit around. Looking to connect to buildings for networking. Combination of low voltage, communications, as well as fiber optics.

All in favor, motion carries unanimously adopted Resolution #375.

#376 Granting Approval for the President & CEO to enter into an agreement for Lift Improvements at Whiteface Mountain and Gore Mountain.

On a motion by Jill Broderick, seconded by John Parete.

At the 3 ski areas we have a total of 36 lifts. We have some orphaned equipment that is hard to service and supply. So we have identified 3 lifts we want to modernize.

All in favor, motion carries unanimously adopted Resolution #376.

#377 Granting Approval for the President & CEO to enter into an agreement with Petersen Equipment for the purchase of used Sprung Instant Structures. On a motion from Jeff Stefanko, seconded by Andy Lack.

A sprung structure is a rust free aluminum substructure, I Beam, light weight, typically fabric sided but can have a lot of glass and panels. A simple structure that meet all the snow loads, wind loads, seismic loads required by codes. They are very flexible where you can adapt the sizes and shapes as needed. Three available; 60' x 132', 70' x 130', 50' x 95'. It's close to 22,000 square feet at about \$38.00 per square foot. Comes with a life safety, heat, air conditioning, fire suppression systems. Multi-purpose typically for events or operations. Jill Broderick asked about transportation and installation costs. Mike stated they are not included. Some engineering, concrete pads, and the erection. Jill Broderick states she does not feel they are aesthetically appealing in concert with the Adirondacks. Art Lussi stated as an event goer they have these structures around the base of events. Bill Beaney asked for examples. Mike stated they have been used for restaurants, lounges, retail shops, rentals, locker rooms, installed at many ski areas if they suffered a fire, for a quick replacement.

All in favor 8, opposed 1, the Board adopted Resolution #368, by majority.

#378 Granting Approval for the President & CEO to enter into an agreement for the purchase of an Air Compressor and accessories for Belleayre Mountain. On a motion from John Parete, seconded by Jeff Stefanko.

5 Years ago Belleayre was committed to rented diesel air, very expensive. In the last 4 years purchased one compressor this size and 4 smaller ones. Costs have gone downhill dramatically for snowmaking.



Motion carries unanimously adopted Resolution #378.

#379 Granting Approval for the President & CEO to enter into an agreement for Professional Plumbing Services for the Olympic Center. On a motion from Chris Pushkarsh, seconded by Steve Hunt.

Primarily the external commercial plumbing required for our work. Includes waste water, water hooking into the Town and Village utilities as well as a lot of communications and data chases around the buildings that are being impacted by the construction.

Motion carries unanimously adopted Resolution #379.

#380 Granting Approval for the President & CEO to enter into an agreement for Electricity Purchases for the Belleayre, Gore, and Whiteface Mountain Ski Centers. On a motion from Cliff Donaldson, seconded by Andy Lack.

Energy costs are our second highest line item. We have been working very hard to be more efficient. With solar at Gore and solar at Whiteface working good, but we do not have big batteries to store the power, we are receiving credits. It's in our best interest to shop the lowest price for electricity that we can.

Motion carries unanimously adopted Resolution #380.

Chair Pro Tem:

Art Lussi asked if there was any public comment. Mike stated we don't have the capability to do so. Public listening on an 800 muted system. As a reminder the next Board Meeting is scheduled for May 11, 2020 at 11:00 am.

Adjournment:

On a motion by Jill Broderick, seconded by John Parete, the meeting of the Olympic Development Authority Board of Directors was adjourned at 11:43 am.



NEW YORK STATE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

Resolution # 381

RESOLUTION GRANTING APPROVAL FOR THE PRESIDENT & CEO TO ENTER INTO AN AGREEMENT FOR THE OLYMPIC SPORTS COMPLEX BUILDING UPGRADES AND CONSTRUCTION OF THE MOUNTAIN COASTER BUILDINGS GENERAL CONTRACT

At a meeting of the Board of Directors of the Olympic Regional Development Authority (ORDA) held on May 11, 2020, the Chairperson Pro Tem offered the following resolution:

WHEREAS, ORDA desires to enter into a proposed Agreement entitled “OSC-Start 1 & MC Buildings (General)” (Contract No. OSC.19.011.101) (“the project”) to be performed by the Luck Brothers Inc.; and

WHEREAS, the project work shall include all labor, materials, tools, equipment, and temporary facilities for the project, the scope of which shall include, but not be limited to, construction of structures to support the mountain coaster, including cart storage building, loading deck and attendant shed, with associated site and electrical work, and deck and canopy extensions at Start House 1, including associated ancillary construction; and

WHEREAS, the project is a continuing effort to make upgrades and improvements to ORDA venues and facilities, and the aforementioned project is necessary to ensure the continued success of ORDA; and

WHEREAS, following a design-bid-build Request for Proposals, Luck Brothers Inc. submitted a proposal for ORDA’s consideration and said bid was determined to be the lowest responsible bidder for the project; and

WHEREAS, pursuant to the terms of the proposed Agreement, the lump sum cost of the project will be \$1,477,864.00; and

WHEREAS, the President & CEO has requested the authority commit the requisite capital for the “OSC-Start 1 & MC Buildings (General)” (Contract No. OSC.19.011.101); and

WHEREAS, pursuant to ORDA’s By-Laws, Art. VI § 2, which requires that the President & CEO obtain Board approval prior to entering into agreements the value of which will be in excess of \$250,000.00 or more over the life of the contract, the President & CEO has requested authority to enter into the foregoing proposed Agreement.

THEREFORE, BE IT RESOLVED that the Board of Directors hereby authorizes the expenditure of funds and commits the capital for the “OSC-Start 1 & MC Buildings (General)” (Contract No. OSC.19.011.101) as is described more fully herein; and

THEREFORE, BE IT FURTHER RESOLVED that, the Board of Directors hereby authorizes the President & CEO to enter into the proposed Agreement under the

circumstance and incorporating the terms described above.

MOVED BY: _____

SECONDED BY: _____

and

ADOPTED BY the following vote:

Excused:

Against:

Emily Stanton, Secretary to the Board, being duly sworn, deposes and says:

The above Resolution # 381 was duly passed by the Board of Directors on May 11, 2020

Signature _____

Title: Secretary to the Board of Directors

Sworn before me this _____ day of May 2020

Notary Public, State of New York



NEW YORK STATE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

Resolution # 382

RESOLUTION APPROVING AND ADOPTING A WHISTLEBLOWER POLICY PURSUANT TO PUBLIC AUTHORITIES LAW § 2986

WHEREAS, pursuant to Public Authorities Law § 2824, the Board of Directors is charged with establishing written policies and procedures governing the conduct of ORDA and ORDA personnel; and

WHEREAS, pursuant to Public Authorities Law § 2986, the Authorities Budget Office, in consultation with the Office of the Attorney General, is required to develop a whistleblower access and assistance program, the purpose of which is to provide board members, officers, and staff of state and local public authorities with a confidential means to report credible allegations of misconduct, wrongdoing, or unethical behavior and to protect those individuals, when acting in good faith, from personal or professional retaliation; and

WHEREAS, pursuant to the above-referenced program, state and local authorities are to adopt and adhere to whistleblower protection policies; and

WHEREAS, ORDA is a State Authority and public benefit corporation; and

WHEREAS, consistent with the law, it is ORDA's intent to implement and adopt a written policy and procedure to encourage and enable ORDA employees, as that term is defined in the policy, to raise concerns in good faith within ORDA and without fear of retaliation or adverse employment action; and

WHEREAS, based on the foregoing, it is found and determined that it is both necessary and desirable to update ORDA's existing Whistleblower Policy and implement and adopt a comprehensive Whistleblower Policy which is compliant with applicable State laws and regulations; and

WHEREAS, annexed hereto and made a part hereof as if fully restated herein, is ORDA's proposed Whistleblower Policy;

NOW THEREFORE BE IT RESOLVED, that after careful consideration and due deliberation, the Board of Directors hereby approves and adopts the attached Whistleblower Policy, effective immediately, that will be posted on the ORDA website and implemented across all ORDA venues;

SO RESOLVED,

At a meeting of the Board of Directors of the Olympic Regional Development Authority (ORDA) held on May 11, 2020, the Chairperson Pro Tem offered the following resolution:

MOVED BY: _____

SECONDED BY: _____

and

ADOPTED BY the following vote:

Excused:

Against:

Emily Stanton, Secretary to the Board, being duly sworn, deposes and says:

The above Resolution # 382 was duly passed by the Board of Directors on May 11, 2020

Signature _____
Title: Secretary to the Board of Directors

Sworn before me this _____ day of May 2020
Notary Public, State of New York



WHISTLEBLOWER POLICY

Purpose

It is the policy of the Olympic Regional Development Authority (“ORDA”) to afford certain protections to individuals who in good faith report violations of ORDA’s Code of Ethics or other instances of potential wrongdoing within ORDA. This Whistleblower Policy is applicable to all ORDA employees and its board members.

It prohibits discrimination, harassment and/or retaliation of any kind against anyone who reports in good faith, based upon a reasonable belief: (i) a complaint and/or provides information concerning an actual, potential or suspected act of fraud, misconduct, wrongdoing or other inappropriate behavior by an employee or ORDA business partner as further described in this Policy, or (ii) a complaint and/or provides information regarding any alleged conduct that violates or demonstrates non-compliance with ORDA Policies and Procedures and/or any applicable laws and regulations affecting the organization.

This Whistleblower Policy, and the procedures set forth below, are intended to encourage and enable employees to raise concerns in good faith within ORDA and without fear of retaliation or adverse employment action.

Definitions

For purposes of this policy, the terms specified below shall be defined as follows:

“Good Faith” – shall mean information that is disclosed whereby the individual disclosing said information reasonably believes such information to be true and reasonably believes that it constitutes potential wrongdoing.

“ORDA” – shall mean the Olympic Regional Development Authority.

“ORDA Employee” – shall mean all staff employed by ORDA including those working full-time, seasonal, part-time, temporary, or contract employees. The term ORDA Employee shall also include, for purposes of this policy, ORDA board members and ORDA Officers.

“Whistleblower” - shall mean any ORDA Employee (as defined herein) who in good faith discloses information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by another ORDA Employee, or concerning ORDA’s investments, travel, acquisition of real or personal property, the disposition of real or personal property, the procurement of goods and services, and/or the business of ORDA itself.

“Wrongdoing” - shall mean any alleged corruption, fraud, criminal or unethical activity, misconduct, waste, conflict of interest, intentional reporting of false or misleading

information, or abuse of authority engaged in by an ORDA Employee (as defined herein) that relates to ORDA.

“Personnel action” – shall mean any action affecting compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement or evaluation of performance.

Section I: Reporting Wrongdoing

Any ORDA Employee who discovers or has knowledge of potential wrongdoing concerning: board members, officers, or employees of ORDA; or a person having business dealings with ORDA; a contractor of ORDA; or concerning ORDA itself, shall report such activity in accordance with the following procedures:

- a) The ORDA Employee shall disclose any information concerning wrongdoing either orally or in a written report to his or her highest level supervisor (i.e., Venue Manager or departmental Director), or to ORDA’s ethics officer, general counsel or human resources representative.
- b) Any ORDA Employee who discovers or has knowledge of wrongdoing shall report such wrongdoing in a prompt and timely manner.
- c) The identity of the whistleblower and the substance of his or her allegations will be kept confidential to the best extent possible.
- d) The individual to whom the potential wrongdoing is reported shall forward the complaint to the Vice President of Operations, Director of Human Resources, or General Counsel, who will then cause an investigation to be conducted in a timely and reasonable manner, which may include referring such information to the Authorities Budget Office or an appropriate law enforcement agency where applicable.
- e) Should an ORDA Employee believe in good faith that disclosing information within ORDA pursuant to Section 1(a) above would likely subject him or her to adverse personnel action or be wholly ineffective, the ORDA Employee may instead disclose the information to the Authorities Budget Office or an appropriate law enforcement agency, if applicable. The toll free number for the Authorities Budget Office (1-800-560-1770) should be used in such circumstances.
- f) Any Employee who knowingly submits false allegations of misconduct, fraud, or other wrongdoing, or otherwise fabricates accusations, is not protected under this policy and is subject to disciplinary action up to and including termination.

Section II: No Retaliation or Interference

No ORDA Employee shall retaliate against any whistleblower for the disclosure of potential wrongdoing, whether through threat, coercion, or abuse of authority; and, no ORDA employee shall interfere with the right of any other ORDA employee by any improper means aimed at deterring disclosure of potential wrongdoing. Further, no ORDA employee shall retaliate against or otherwise interfere with an employee who is cooperating and/or providing information during the course of an investigation. Any attempts at retaliation or interference are strictly prohibited and:

- a) No ORDA Employee who in good faith discloses potential violations of ORDA's Code of Ethics or other instances of potential wrongdoing, shall suffer harassment, retaliation or adverse personnel action.
- b) All allegations of retaliation against a Whistleblower or interference with an individual seeking to disclose potential wrongdoing will be thoroughly investigated by ORDA.
- c) Any ORDA Employee who retaliates against or attempts to interfere with any individual for having in good faith disclosed potential violations of ORDA's Code of Ethics or other instances of potential wrongdoing is subject to discipline, which may include termination of employment.
- d) Any allegation of retaliation or interference will be taken and treated seriously and irrespective of the outcome of the initial complaint, will be treated as a separate matter.

Section III: Other Legal Rights Not Impaired

The Whistleblower Policy and Procedures set forth herein are not intended to limit, diminish or impair any other rights or remedies that an individual may have under the law with respect to disclosing potential wrongdoing free from retaliation or adverse personnel action.

- a) Specifically, these Whistleblower Policy and Procedures are not intended to limit any rights or remedies that an individual may have under the laws of the State of New York, including but not limited to the following provisions: Civil Service Law § 75-b, Labor Law § 740, State Finance Law § 191 (commonly known as the "False Claims Act"), and Executive Law § 55(1).
- b) With respect to any rights or remedies that an individual may have pursuant to Civil Service Law § 75-b or Labor Law § 740, any employee who wishes to preserve such rights shall prior to disclosing information to a government body, have made a good faith effort to provide the appointing authority or his or her designee the information to be disclosed and shall provide the appointing authority or designee a reasonable time to take appropriate action unless there is imminent and serious danger to public health or safety. (See Civil Service Law § 75-b[2][b]; Labor Law § 740[3]).



NEW YORK STATE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

Resolution # 383

RESOLUTION APPROVING AND ADOPTING A PAID FAMILY LEAVE POLICY

WHEREAS, pursuant to Public Authorities Law § 2824, the Board of Directors is charged with establishing written policies and procedures governing the conduct of ORDA and ORDA personnel; and

WHEREAS, pursuant to the New York State Paid Family Leave Act (the “Act”), the State, any political subdivision of the State, a public authority or any government agency or instrumentality may voluntarily opt into the Act;

WHEREAS, ORDA is a State Authority and public benefit corporation; and

WHEREAS, pursuant to the Act, employees are entitled to paid time off in order to bond with a newly-born, adopted or foster child, to care for a close relative with a serious health condition, or to assist when a family member is deployed abroad on active military service; and

WHEREAS, consistent with the Act, it is ORDA’s intent to adopt and implement a written policy and procedure to provide eligible employees with the ability to request paid family leave while ensuring that no employee is the subject of discrimination or retaliation for requesting or taking such leave, and that upon return from leave an employee will either be reinstated to the same position or to a position comparable to the one held by the employee at the time of taking leave; and

WHEREAS, based on the foregoing, it is found and determined that it is both necessary and desirable that ORDA adopt and implement a comprehensive Paid Family Leave Policy which is compliant with applicable State and federal laws and regulations; and

WHEREAS, annexed hereto and made a part hereof as if fully restated herein, is ORDA’s proposed Paid Family Leave Policy;

NOW THEREFORE BE IT RESOLVED, that after careful consideration and due deliberation, the Board of Directors hereby approves and adopts the attached Paid Family Leave Policy, effective immediately, that will be posted on the ORDA website and implemented across all ORDA venues;

SO RESOLVED,

At a meeting of the Board of Directors of the Olympic Regional Development Authority (ORDA) held on May 11, 2020, the Chairperson Pro Tem offered the following resolution:

MOVED BY: _____

SECONDED BY: _____

and

ADOPTED BY the following vote:

Excused:

Against:

Emily Stanton, Secretary to the Board, being duly sworn, deposes and says:

The above Resolution # 383 was duly passed by the Board of Directors on May 11, 2020

Signature _____
Title: Secretary to the Board of Directors

Sworn before me this _____ day of May 2020
Notary Public, State of New York

OLYMPIC REGIONAL DEVELOPMENT AUTHORITY
PAID FAMILY LEAVE POLICY

POLICY

It is the policy of the State of New York Olympic Regional Development Authority (ORDA) to opt-in to New York Paid Family Leave (PFL) to provide its eligible employees with the ability to request and take PFL to: bond with a newborn, adopted or fostered child; care for a close relative with a serious health condition; or assist with family situations when a family member is deployed abroad on active military service. It is further ORDA's policy to ensure that no employee will be the subject of discrimination or retaliation for requesting or taking PFL, and that upon return from leave an employee will either be reinstated to the same position or a position that is comparable to the one held by the employee at the time of taking leave. ORDA employees who request or take PFL will not be subject to any reduction in pay or benefits as a result.

This policy applies to only those staff who are designated as MC by ORDA's Human Resources Office. Staff subject to a collective bargaining agreement and those who work less than 600 hours per year are not covered by this policy.

DEFINITIONS

The term "close relative" means an employee's spouse, domestic partner, child, stepchild, parent, stepparent, parent-in-law, grandparent, or grandchild.

The term "serious health condition" means, as defined in 12 NYCRR 355.9[a][16] and as it may be amended from time to time, an illness, injury, impairment, or physical or mental condition that involves (a) inpatient care in a hospital, hospice, or residential health care facility, or (b) continuing treatment or continuing supervision by a health care provider¹.

The term, "domestic partner" means a person who is not related by blood to the employee and is at least eighteen years of age who is dependent upon the employee for support as defined in Section 4 of the Workers Compensation Law; or has registered as the domestic partner of an employee with any registry identified in Section 4 of the Workers Compensation Law. For the purposes of this section, the term "domestic partner" shall include the term "surviving domestic partner".

The term "M/C" shall mean only those staff designated Management Confidential by the Olympic Regional Development Authority Office of Human Resources.

¹ 12 NYCRR 355.9[a][16] was amended in March 27, 2020, to add the following as a definition of a serious health condition: Serious health condition also means a COVID-19 diagnosis by a health care provider. Said rule is effective for 90 days. See <http://www.wcb.ny.gov/content/main/wclaws/Covid-19SeriousHealthCondition/>

ELIGIBILITY

ORDA's current policy applies to employees who work a regular schedule of 20 or more hours per week. Eligibility for PFL will commence after 26 consecutive weeks of employment. M/C employees who work a regular schedule of fewer than 20 hours per week are eligible after working 175 days, which do not need to be consecutive.

Paid time off will count as a qualifying work day/days toward eligibility for PFL; However, during a period of PFL, employees will not continue to accrue either vacation or sick time. Accrual of time will resume once an employee has returned to work from PFL.

Neither citizenship nor immigration status are factors that will be considered in determining the eligibility of an employee for PFL.

Only one employee at a time may use PFL to bond with the same child or care for the same family member.

I. PFL BENEFITS

A. Time available under PFL

The PFL time available to eligible employees will be phased in on an annual basis up through 2021:

- up to 10 weeks in 2020
- up to 12 weeks in 2021

Leave may be taken all at once or intermittently, but must be taken in full-day increments. An employee may take the maximum time-off benefit in any given 52-week period.

B. Benefit payments under PFL

The payment of benefits to eligible employees will also be phased in on an annual basis up through 2021. Benefits are based on a percentage of the employee's average weekly wage, capped at the same percentage of the New York State Average Weekly Wage as calculated annually by New York State's Department of Labor. PFL benefit payments in 2020 and 2021 will be calculated as follows:

- 60% of the employee's average weekly wage in 2020;
- 67% of the employee's average weekly wage in 2021.

PFL benefits are subject to State and Federal income tax (*see* New York State Department of Tax and Finance [Notice N-17-12](#)).

ORDA employees who take PFL are responsible for assuring that the proper tax withholding is applied to PFL benefits:

- to withhold federal taxes the employee must complete an [IRS Form W-4S](#) (Request for Federal Income Tax Withholding From Sick Pay) and submit it to the Arch Insurance Company² with the initial claim form.
- to withhold New York State taxes the employee must provide a written notice to the Arch Insurance Company² specifying the dollar amount to be withheld from each weekly benefit check. Written notice can be provided by using the New York State Paid Family Leave [State Tax Withholding Request Form](#) for this notice.

Note: If you wish to withhold New York State taxes you must also withhold federal taxes. Questions concerning how much to withhold should be directed to a tax professional.

C. Relationship with other benefits and other types of leave

PFL benefits are paid directly by the insurance carrier. As a result, any deductions other than as authorized above to pay taxes, will not be taken out of the PFL benefit check. Any employee who is out of work on PFL may keep his or her health insurance benefits while out on leave, by directly paying the required portion of the premiums that would otherwise be deducted from their paycheck.

Employees should contact ORDA's Benefit Administrator to arrange for payment of insurance premiums while out of work on PFL

Employees may access PFL benefits in accordance with the eligibility requirements established herein; however, PFL is a stand-alone benefit and employees may not use accrued time to supplement PFL.

Employees who are unable to work and who qualify for Workers Compensation Benefits may not use PFL benefits at the same time that they receive Workers Compensation Benefits. However, if an employee is receiving reduced earnings, he or she may be eligible for PFL and should contact the Office of Human Resources at 518-302-5307 or 518-302-5346

II. COST, PREMIUM PAYMENTS AND PAYROLL DEDUCTIONS

ORDA will provide PFL benefits and pay the premium on behalf of M/C staff.

² Or other carrier as it may be changed from time to time. For the most recent carrier information, please contact ORDA's Benefits Administrator

III. PROCESS FOR REQUESTING AND APPROVING PFL

- A. Requests for PFL must be made by the requesting employee directly to the insurance carrier as soon as possible but no later than 30 days after the leave commences.

Applications for PFL may be found here: <https://paidfamilyleave.ny.gov/forms>. Employees may also obtain the required forms by contacting ORDA's Benefits Administrator. Be sure to choose the correct form when applying (form PFL-1, PFL-2, PFL-3, PFL-4, or PFL-5). Note that PFL-1 is required for all applications and additional forms may be required depending the basis for the leave request.

- B. In addition, employees who wish to take PFL must notify ORDA's Office of Human Resources. The requesting employee should give as much notice as is practicable, in writing. Notice should include, to the extent possible, the amount of time the requesting employee plans to take for leave.

Requests submitted to ORDA are to be made using ORDA's Paid Family Leave Request Form and should include a request that ORDA complete Part B of the Request for Paid Family Leave Form (<https://paidfamilyleave.ny.gov/forms>) . ORDA's Human Resources Office will return the form with Part B completed to the requesting employee. The information returned by ORDA to the requesting employee will include the employee's last 8 weeks of gross wages and a calculation of the employee's average weekly wage. **ORDA is required to complete and return the form to the requesting employee within three business days.** If the employee does not receive the completed form from ORDA within three days, s/he should submit *Form PFL-1*, along with the rest of your request package, to ORDA's PFL insurance carrier.

- C. Depending on the basis for the PFL, the following documentation should be submitted by the requesting employee, to the insurance carrier, along with the request:

1. For bonding with a newborn

a. If the requesting employee is the birth parent: submit a copy of the newborn's birth certificate if available, or an original copy of a health care provider certification of birth.

b. If the requesting employee is not the birth parent: A copy of the child's birth certificate, if available, naming you as the second parent, a Voluntary Acknowledgement of Paternity (Form LDSS-4418), or a Court Order of Filiation.

Or

Provide the same documentation as would be required of the birth parent plus a second document verifying the relationship to the birth parent, such as a marriage certificate, civil union, or domestic partnership document.

2. For bonding with an adopted child, provide one of the following:

- a. A copy of the court documents finalizing the adoption
- b. Documentation in furtherance of adoption
- c. A court order finalizing the adoption

If the employee requesting PFL is not the parent named in the documents, the insurance carrier may require proof verifying the employee's relationship to the parent named in the documents, such as a marriage certificate, civil union, or domestic partnership document.

3. For bonding with a fostered child

The requesting employee must submit a foster care placement letter issued by the county or city Department of Social Services or authorized voluntary foster care agency. If the requesting employee is not the parent named in the placement letter, the employee must provide proof verifying his or her relationship to the parent named in the placement letter, such as a marriage certificate, civil union, or domestic partnership document.

4. For care of a close relative with a serious health condition

Any forms and documentation as required by the insurance carrier.

5. For assisting when a family member is deployed abroad on active military service

The requesting employee must submit verification that the family member is in active military service through submission of one of the following:

- a. Covered active duty orders.
- b. A letter from the military unit documenting impending call or order to covered duty.
- c. Documentation of military leave signed by the approval authority for the military member's Rest and Recuperation.
- d. Any additional forms and documentation that may be required by the insurance carrier.

- D.** Determinations regarding benefit approval/denial are made by the insurance carrier. The carrier must pay or deny the employee's request within 18 calendar days of receipt of a completed request for PFL, or the employee's first day of leave, whichever is later.

1. **If the PFL request is granted.** Upon completion of PFL, the employee will be returned to the same or similar job that s/he was performing upon initiation of PFL. Employees need to keep Office of Human Resources apprised of their anticipated return date to ensure a seamless transition back to work.
2. **If the PFL request is denied.** If your PFL claim is denied, the insurance carrier or employer, if self-insured, will provide you with information about how to request arbitration. A neutral arbitrator will decide claim-related disputes. Employees may request arbitration at www.nyspfla.com.

IV. PROCESS FOR FILING COMPLAINTS OF PFL DISCRIMINATION

Any employee who believes that he or she was discriminated against for requesting and/or taking PFL by having been terminated, having his or her pay and/or benefits reduced, having been disciplined, or otherwise retaliated against, should submit a formal request for job reinstatement to the Office of Human Resources using the Formal Request For Reinstatement Regarding Paid Family Leave (Form PFL-DC-119), which can be found at: <http://www.wcb.ny.gov/content/main/forms/PFL-DC-119.pdf>.

The employee must also submit a copy of this form to:

Paid Family Leave
PO Box 9030
Endicott, NY 13761-9030

Should ORDA not comply with the request for reinstatement within thirty (30) days of the date of submission, the affected employee has the right to a hearing with the Workers' Compensation Board (Board) using the Paid Family Leave Discrimination/Retaliation Complaint (Form PFL-DC-120), which is also available on the Paid Family Leave website. See <http://www.wcb.ny.gov/content/main/forms/PFL-DC-120.pdf>.

The Workers Compensation Board will assemble the employee's case and schedule a hearing within forty-five (45) calendar days of receipt of the complaint.

Note: To be eligible to file a complaint and have the right to a hearing before the Workers Compensation Board the employee must have first requested reinstatement and filed a complaint with ORDA's Office of Human Resources.

The relief available to an employee by an administrative law judge who presides over the Workers Compensation Board Hearing includes reinstatement, payment for any lost wages, payment for attorney's fees. The law also provides for penalties against ORDA of up to \$500.

In addition to protections under the Workers' Compensation Law, in certain situations an employee may have viable claims under the New York Human Rights Law which makes it illegal for employers to discriminate against employees based on certain protected grounds, including but not limited to, sexual orientation, sex, age, marital status, pregnancy-related conditions, or familial status. For more information, please visit the Division of Human Rights website at: <https://dhr.ny.gov/complaint#howto>.

For more information on Paid Family Leave, you may call the New York State PFL Hotline at 844-337-6303, visit www.ny.gov/PaidFamilyLeave, or contact your venue's Human Resources office.