



INDUSTRIAL DEVELOPMENT AGENCY

83 Broadway, Newburgh, NY 12550

(845) 569-7369 idadirector@cityofnewburgh-ny.gov

BOARD MEETING

Wednesday September 11, 2024
83 Broadway, 3rd floor, Newburgh, NY

AGENDA

1. Roll Call
2. Proof of Notice of Meeting
3. Reading and approval of minutes of the previous meeting
4. Report of the Treasurer
Approval of Treasurer's Report for June, July, August 2024
Approval of payment of bills for June, July, August 2024
5. Chairman's Report
6. Counsel's Report
7. Executive Director's Report
8. New Business

Resolution # 2024-09-11-01 Public Hearing for 5 Scobie Drive

Resolution #2024-09-11-02 Approving Resolution for IV 5 Newburgh South Logistics LLC

9. Old Business

104 Washington Street

UTEP

10. Adjournment

**CITY OF NEWBURGH
INDUSTRIAL DEVELOPMENT AGENCY**

Resolution No. 2024-09-11-__

**APPROVING RESOLUTION
IV5 NEWBURGH SOUTH LOGISTICS CENTER LLC PROJECT**

A regular meeting of City of Newburgh Industrial Development Agency (the “Agency”) was convened in public session at City Hall, 83 Broadway, Newburgh, New York on September 11, 2024 at 6:00 o'clock p.m., local time.

The meeting was called to order by the Chairman of the Agency and, upon roll being called, the following members of the Agency were:

PRESENT:

Marlon Ramos	Chairperson
Christina Amato	Vice Chairperson
Adam Pollick	Treasurer
Gregory Nato	Secretary

ABSENT:

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Cherisse Vickers	Executive Director
Robert J. McLaughlin, Esq.	Agency Counsel

The following resolution was offered by _____, seconded by _____, to wit:

RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION WITH A LEASE/LEASEBACK TRANSACTION FOR A PROJECT AND PROJECT ASSIGNMENT FOR IV5 NEWBURGH SOUTH LOGISTICS CENTER LLC.

WHEREAS, the City of Newburgh Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 577 of the 1982 Laws of New York, as amended, constituting Section 913 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, and research and recreation facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct, lease, improve, maintain, equip, and furnish one or more “projects” (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed, leased, improved, maintained, equipped and furnished, and to convey said projects or to lease said projects; and

WHEREAS, on October 11, 2023, IV5 Newburgh South Logistics Center LLC, a Delaware limited liability company, or such other person(s) or entities as may be designated by the Company and agreed upon by the Agency (collectively, the “Company”), submitted an application to the Agency, which application has been updated by the Company prior to this meeting (collectively, the “Application”), a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) the acquisition of an interest in a parcel of real property consisting of approximately 49.60 acres located at 700 South Street, Newburgh, New York (the “Land”), (2) the construction and improvement of a new warehouse distribution building on the Land totaling approximately 416,320 square feet (the “Facility”), and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the “Equipment”) (the Land, the Facility, and the Equipment hereinafter collectively referred to as the “Project Facility”), (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or

sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on February 21, 2024 (the “First Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the First Public Hearing Resolution, the Chair and the Executive Director of the Agency (A) caused notice of a public hearing of the Agency (the “First Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on March 6, 2024 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the First Public Hearing to be posted on February 29, 2024 on the Agency’s website and also on a public bulletin board located at the Newburgh City Hall located at 83 Broadway, City of Newburgh, Orange County, New York, (C) caused notice of the First Public Hearing to be published on March 6, 2024 in the Times Herald Record, a newspaper of general circulation available to the residents of the City of Newburgh, Orange County, New York, (D) conducted the First Public Hearing on March 18, 2024 at 6:00 o'clock p.m., local time at offices of the City of Newburgh Industrial Development Agency located at City Hall, 83 Broadway, Orange County, Newburgh, New York, and (E) caused to be prepared a report of the First Public Hearing (the “First Public Hearing Report”) fairly summarizing the views presented at such First Public Hearing and caused a copy of said First Public Hearing Report to be made available to the members of the Agency and the public by posting the same to the Agency website; and

WHEREAS, by resolution adopted by the members of the Agency on June 17, 2024 (the “Second Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project and the amendment to the Application submitted by the Company; and

WHEREAS, pursuant to the authorization contained in the Second Public Hearing Resolution, the Chair and the Executive Director of the Agency (A) caused notice of a public hearing of the Agency (the “Second Public Hearing” and with the First Public Hearing, the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on _____, 2024 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Second Public Hearing to be posted on _____, 2024 on the Agency’s website and also on a public bulletin board located at the Newburgh City Hall located at 83 Broadway, City of Newburgh, Orange County, New York, (C) caused notice of the Second Public Hearing to be published on _____, 2024 in the Times Herald Record, a newspaper of general circulation available to the residents of the City of Newburgh, Orange County, New York, (D) conducted the Second Public Hearing on July 25, 2024 at 6:00 o'clock p.m., local time at offices of the City of Newburgh Industrial Development Agency located at City Hall, 83

Broadway, Orange County, Newburgh, New York, and (E) caused to be prepared a report of the Second Public Hearing (the “Second Public Hearing Report”) fairly summarizing the views presented at such Second Public Hearing and caused a copy of said Second Public Hearing Report to be made available to the members of the Agency and the public by posting the same to the Agency website; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York at 6 NYCRR Part 617 (the “Regulations”, and collectively with the SEQR Act, “SEQRA”), the Agency has been informed that (1) the City of Newburgh Planning Board (the “Planning Board”) declared itself to act as “lead agency” for a “coordinated review” of a “Type I Action” with respect to the Project on December 21, 2021, (2) the Planning Board exercised due diligence in identifying other “involved agencies” known at that time; and (3) the Planning Board issued a Determination of Significance through the issuance of an Negative Declaration issued on May 16, 2023 and affirmed on July 18, 2023 (the “Negative Declaration”), attached hereto as Exhibit A, determining that the acquisition, reconstruction, renovation and installation of the Project Facility will not have any significant adverse environmental impacts; and

WHEREAS, the Agency determined by Resolution No. 2024-09-11-__dated September 11, 2024 that (i) the Agency is an “involved agency” with respect to the Project, (ii) the Agency (1) concurred in the determination by the Planning Board, as “lead agency” with respect to the Project, to acknowledge receipt of a copy of the Negative Declaration and (2) determined that it had no information to suggest that the Planning Board was incorrect in determining that the Project will not have a “significant effect on the environment” pursuant to SEQRA and (iii) that by reason of the foregoing, the Agency determined that no environmental impact statement need be prepared with respect to the Project; and

WHEREAS, to aid the Agency in determining whether the Project qualifies for Financial Assistance as a commercial project within the meaning of the Act, the Agency has reviewed the following (collectively, the “Project Qualification Documents”): (A) the Application; (B) the published Cost Benefit Analysis dated December 22, 2023, updated as of January 11, 2024 and June 11, 2024 (the “CBA”), and prepared by the MRB Group at the request of the Agency and which was discussed with the public at the Public Hearing; (C) the published Test of Reasonableness dated December 22, 2023, updated as of January 11, 2024, and prepared by the MRB Group at the request of the Agency and which was discussed with the public at the Public Hearing; (D) the transcripts of the Public Hearing, respectively; and (E) copies of correspondence from governmental officials supporting the commercial/economic impacts of the Project (the “Local Support”); and

WHEREAS, pursuant to the CBA, the Project is projected to (A) create approximately 105 direct and indirect full-time equivalent construction jobs at the Project Facility during the approximately twelve month construction period; (B) create approximately 30 direct and indirect ongoing full-time equivalent jobs at the Project Facility and (C) projected to generate annual

sales tax and real property tax revenue to the City of Newburgh and Orange County of more than \$6 million over the period of the PILOT when the Project Facility becomes operational; and

WHEREAS, pursuant to the Test of Reasonableness, the requested Financial Assistance is reasonable and will provide the Company (A) a reasonable, risk-adjusted internal rate of return; and (B) permit an acceptable debt service ratio coverage for the Project for financing purposes; and

WHEREAS, during the Public Hearing, no letters, petitions and/or signatures in opposition were received by the Agency; and

WHEREAS, pursuant to Section 862(2)(b) of the Act, the Agency would be authorized to provide financial assistance in respect of the Project provided that the obligation of the Agency to proceed with the Project was subject to certain conditions, including, following compliance with the procedural requirements of Section 859-a of the Act, a finding by the Agency that the Project would preserve permanent, private sector jobs in the State of New York or increase the overall number of permanent, private sector jobs in the State of New York; and

WHEREAS, having complied with the requirements of SEQRA and Section 859-a of the Act with respect to the Project, the Agency now desires, pursuant to Section 862(2)(c) of the Act, to make its final findings with respect to the Project and its final determination whether to proceed with the Project; and

WHEREAS, subject to compliance with the terms hereof and the execution and delivery of the Lease Documents (as defined hereinbelow) by each of the Company and, as applicable, the Agency will: (i) designate the Company as its agent for the purpose of acquiring, constructing, equipping and completing the Project pursuant to a project agreement setting forth the Finance Assistance being provided (the "Project Agreement"); (ii) acquire a leasehold interest in the Project through the negotiation, execution and delivery of a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement"), a bill of sale (the "Bill of Sale"), an environmental compliance and indemnification agreement (the "Environmental Compliance and Indemnification Agreement") and all other documents and certificates required by the Agency to confer the approved Financial Assistance, each of the foregoing with the Company (the "Miscellaneous Documents" and together with the Project Agreement, the Lease Agreement, the Leaseback Agreement, the Bill of Sale and the Environmental Compliance and Indemnification Agreement, collectively, the "Lease Documents"); (iii) secure the Company's borrowings with respect to the Project Facility by joining in one or more construction or permanent mortgages and assignment of leases and rents on the Project Facility in favor of the Company's lender(s); (iv) provide the Financial Assistance to the Company in the form of (a) State and local sales and use tax exemption for purchases and rentals related to the acquisition, construction, equipping and completion of the Project, (b) a payment in lieu of tax agreement, and (c) a mortgage recording tax exemption for financing related to the Project; and

WHEREAS, the Lease Documents, in substantially similar form to those used for other projects, and related documents will be negotiated and presented to the Agency for execution and delivery subject to the approval of these resolutions.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. All action taken by the Chairperson and/or any Member or staff of the Agency with respect to the Public Hearing with respect to the Project and the requested Financial Assistance is hereby ratified and confirmed.

Section 2. The law firm of Whiteman Osterman & Hanna LLP is hereby appointed Agency Counsel to the Agency with respect to all matters in connection with the Project. Agency Counsel for the Agency is hereby authorized, at the expense of the Company and Assignee, to work with the Company and Assignee, counsel to the Company and Assignee, and others to prepare, for submission to the Agency, all documents necessary to effect the transactions contemplated by this Resolution. Agency Counsel has prepared and submitted an initial draft of the Agency Documents to staff of the Agency.

Section 3. The Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act;

(B) The Project constitutes a “project,” as such term is defined in the Act;

(C) The Project site is located entirely within the boundaries of the City of Newburgh, Orange County, New York;

(D) It is estimated at the present time that the costs of the planning, development, acquisition, construction, and installation of the Project Facility (collectively, the “Project Costs”) will be approximately \$53,454,900.00.

(E) The completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York;

(F) The Project Facility does not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project, and accordingly, the Project is not prohibited by the provisions of Section 862(2)(a) of the Act, and (2) accordingly the Agency is authorized to provide financial assistance in respect of the Project pursuant to Section 862(2)(a) of the Act;

(G) The Agency has determined: (i) the Project is located in a “highly distressed area” (as defined in the Act); (ii) (1) the Project Facility will provide necessary infrastructure and other opportunities for area employers and businesses, (2) the completion of the Project Facility will have a positive impact upon the creation, retention and expansion of employment opportunities in the City of Newburgh and in the State of New York; (3) the completion of the Project will

assist in promoting employment opportunities and assist in preventing economic deterioration in the City of Newburgh and in the State of New York; (4) the acquisition, construction and installation of the Project Facility is essential to the creation of new employment opportunities and is essential to the prevention of economic deterioration of businesses and neighborhoods located in the City of Newburgh; (5) the undertaking of the Project will serve the public purposes of the Act by preserving and creating permanent private sector jobs in the State of New York; (6) the Project will create product use of vacant industrial land in the City of Newburgh; and (8) the granting of the Financial Assistance by the Agency with respect to the Project will promote and maintain the general prosperity and economic welfare of the citizens of the City of Newburgh, Orange County, New York and the State of New York and improve their standard of living, by providing a commercial project, thereby serving the public purposes of the Act;

(H) The Agency has reviewed all information it has received relating to the Project including without limitation the Application and related supplemental materials submitted by the Company, the Public Hearing Report. After consideration of such information, documents, comments and opinions, the Agency finds as follows:

- (i) The Agency Documents will require that the Company, or its successors or assigns, comply with any requirements of the City Planning Board and Department of Buildings prior to the receipt of any Financial Assistance; and
- (ii) Special Districts will not be affected by the PILOT Request; and
- (iii) In the event the Company cancels or withdraws from the Payment in Lieu of Tax Agreement prior to its termination as described in the closing documents with the Agency, the Uniform Project Benefits Agreement will provide for the recapture of the real property taxes which would otherwise have been due in consideration of the Project; and
- (iv) By reason of the Pilot Request, the Agency reviewed the CBA and the Test of Reasonableness Report prepared by the Agency's consultant. The Test of Reasonableness Report concludes that the requested Financial Assistance is reasonable and will provide the Company (A) a reasonable, risk-adjusted internal rate of return; and (B) permit an acceptable debt service ratio coverage for the Project for financing purposes.

(I) The Project should receive the Financial Assistance in the form of exemption from certain (i) sales and use taxes; (ii) real estate transfer taxes and mortgage recording taxes; and (iii) real property taxes based on (1) the Company's statement that the Project will not proceed without such Financial Assistance, including the PILOT Request, and (2) the CBA and Test of Reasonableness undertaken by the Agency and the description of expected public benefits to occur as a result of this Project, as described on **Exhibit A** attached hereto and failure

by the Assignee to meet the expected public benefits will result in a recapture event, as described on **Exhibit B** attached hereto; and

(J) In accordance with the CBA, the projected total Financial Assistance provided to the Company for the Project is as follows:

<u>TYPE OF FINANCIAL ASSISTANCE</u>	<u>AMOUNT OF PROJECTED FINANCIAL ASSISTANCE</u>
Sales and Use Tax Exemption Benefits	\$1,507,500
Payment in Lieu of Real Estate Taxes	\$4,185,659
Mortgage Recording Tax Exemption	\$280,818
TOTAL PROJECTED FINANCIAL ASSISTANCE	\$5,973, 977

(K) It is desirable and in the public interest for the Agency to approve the Application and to enter into the Agency Documents.

Section 4. The Agency is hereby authorized, without limitation (A) to acquire a license in the Licensed Premises pursuant to the License Agreement, if applicable, (B) to acquire a leasehold interest in the Leased Premises pursuant to the Underlying Lease, (C) to acquire title to the Equipment pursuant to a bill of sale (the “Bill of Sale to Agency”) from the Assignee to the Agency, and (D) to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisitions are hereby approved, ratified and confirmed.

Section 5. The Agency is hereby authorized to acquire, construct and install the Project Facility as described in the Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition, construction and installation are hereby ratified, confirmed and approved.

Section 6. The Payment in Lieu of Tax Agreement shall provide for PILOT Payments based on the following percentage exemptions:

<u>TAX YEAR</u>	<u>Percentage of Exemption*</u>
1	100%
2	75%
3	75%

4	75%
5	60%
6	50%
7	40%
8	30%
9	20%
10	10%

* On future assessments related to improvements to be made as part of the Project.

Section 7. The Chairperson (or Vice Chairperson) of the Agency, with the assistance of Agency Counsel, is authorized to negotiate and approve the form and substance of the Agency Documents.

Section 8. (A) The Chairperson, the Vice Chairperson, or the Executive Director of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agency Documents, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in the forms thereof as the Chairperson (or Vice Chairperson) shall approve, the execution thereof by the Chairperson (or Vice Chairperson) to constitute conclusive evidence of such approval.

(B) The Chairperson (or Vice Chairperson) of the Agency is hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 9. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 10. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Marlon Ramos	VOTING	_____
Christina Amato	VOTING	_____
Adam Pollick	VOTING	_____
Gregory Nato	VOTING	_____

The foregoing Resolution was thereupon declared duly adopted.

DRAFT

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

I, the undersigned, Secretary of the City of Newburgh Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on September 11, 2024 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the “Open Meetings Law”), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this ___ day of September 2024.

DRAFT

Secretary

(SEAL)

EXHIBIT A

DESCRIPTION OF THE EXPECTED PUBLIC BENEFITS

In the discussions had between the Project Beneficiary (IV5 Newburgh South Logistics Center LLC) and the Agency with respect to the Project Beneficiary’s request for Financial Assistance (including, without limitation, the PILOT Request) from the Agency with respect to the Project, the Project Beneficiary has represented to the Agency that the Project is expected to provide the following benefits to the Agency and/or to the residents of the City of Newburgh, Orange County, New York (the “Public Benefits”):

Description of Benefit		Applicable to Project (indicate Yes or No)		Expected Benefit
1.	Retention of existing jobs	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Zero (0) full time equivalent existing jobs at the Project Facility (vacant or abandoned land).
2.	Creation of new permanent jobs	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Thirty (30) full time or part time private sector jobs at the Project Facility and up to six (6) indirect full time or part time private sector jobs at the Project Facility within twelve (12) months of completion of the Project.
3.	Estimated of tax exemptions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Approximately (i) \$1, 507,500 in sales tax exemption; (ii) \$4,185,659 in real estate tax exemption; and (iii) \$280,818 in mortgage recording tax exemption
4.	Creation of construction employment for local labor (i.e., labor resident in the area comprised of Hudson Valley Region as described in Agency Local Labor Policy)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Average of sixty-eight (68) direct and thirty-seven (37) indirect full time equivalent construction jobs at the Project Facility for local labor during an estimated construction period of twelve (12) months, commencing within three (3) months of the closing of the Lease Documents. The Company agrees that the Project will comply with the Agency’s Local Labor Policy. In connection with Labor Policy, the Agency will contract with an independent consultant to review the Company’s compliance with the Labor Policy and the

				Company will establish an escrow account with the Agency for the purposes of paying the costs and fees of such independent consultant.
5.	Private sector investment	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$53,454,900.00 invested at the Project Facility within twelve (12) months of the date of the Approving Resolution for the Project.
6.	Creation of new revenues for local taxing jurisdictions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$6,820,846 of new revenues for local taxing jurisdictions and special districts with respect to the Project Facility within twenty-four (24) months of the date of completion of Project operations by the Company/Project Beneficiary.
7.	Attract customers from outside the Economic Development Region	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Project is a warehouse distribution center.
8.	Adaptive reuse of an existing deteriorating structure.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Project is new construction on vacant land.
9.	Regional wealth creation (majority of sales/customers from outside of the City)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The Project will serve as a distribution center to a tenant which serves a market beyond the City.
10.	Alignment with local planning and development efforts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The City Planning Department has approved the Project.
11.	Promotes walkable community areas	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Project will create daily/multiple day employees in the City, which will promote local use of restaurants, entertainment and other amenities.
12.	Elimination or reduction in blight	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Current land is a brownfield, is vacant and underutilized.
13.	Historic building designation	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Not applicable.
14.	Brownfield remediation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Project redevelops a current brownfield site.

EXHIBIT B

DESCRIPTION OF THE RECAPTURE EVENTS

In connection with the Project and the granting of the Financial Assistance, the Agency and the Project Beneficiary/Company agree that the following shall constitute recapture events with respect to the Project and the granting of the Financial Assistance:

1.	Failure of the Project Beneficiary to document to the satisfaction of the Agency the commencement of the acquisition, construction, reconstruction, renovation, and/or installation of the Project Facility within four (4) months of the date of the Approving Resolution for the Project.
2.	Failure of the Project Beneficiary to document to the satisfaction of the Agency the completion of the acquisition, construction, reconstruction, renovation, and/or installation of the Project Facility within twelve (12) months of the commencement of construction.
3.	Failure by the Project Beneficiary to document to the satisfaction of the Agency the creation of at least 85% of the average full time equivalent local labor construction jobs at the Project Facility during the construction period described on Exhibit A .
4.	Failure by the Project Beneficiary to document to the satisfaction of the Agency the creation of at least 85% of the full time equivalent new jobs at the Project Facility listed on Exhibit A .
5.	Failure by the Project beneficiary to develop a program designed to focus job opportunities for residents from the City of Newburgh and Orange County at the Project within six (6) months of closing on the Lease Documents.
6.	Failure by the Project Beneficiary to document to the satisfaction of the Agency that at least 80% of the private sector investment described on Exhibit A occurred with respect to the Project Facility within eight (8) months of the date of the Approving Resolution for the Project.
7.	Failure by the Project Beneficiary to document to the satisfaction of the Agency that at least 80% of the new revenues for local taxing jurisdictions and special districts described on Exhibit A attached hereto were created within twenty-four (24) months of the date of completion of the Project by the Project Beneficiary.
8.	Failure by the Project Beneficiary to document to the satisfaction of the Agency that the Project has substantially complied with the requirements of the Agency SEQR Resolution.
9.	Liquidation of substantially all of the Project Beneficiary's (or its members or related party) operating assets at the Project Facility and/or cessation of substantially all of the Project Beneficiary's operations at the Project Facility during the initial 10 years after completion of the Project.
10.	Relocation of all or substantially all of Project Beneficiary's operations at the Project Facility to another site, or the sale, lease or other disposition of all or substantially all of the Project Facility at any time.
11.	Failure by the Project Beneficiary to comply with the annual reporting requirements or to provide the Agency with requested information.
12.	Sublease or assignment of all or part of the Project Facility in violation of any Project Facility Agreement.

13.	A change in the use of the Project Facility, other than as described on Exhibit A and other directly and indirectly related uses, in violation of any Project Facility Agreement.
14.	Failure by the Project Beneficiary to use best efforts to secure a sub-lease(s) with end-user sub-tenant(s) of the Project Facility, within six (6) months of the date of completion of the Project by the Project Beneficiary, which sub-lease(s) include obligations for the sub-tenant(s) to comply with the Lease Documents.
15	Failure by the Project Beneficiary to use best efforts to establish an apprenticeship program with Orange County Community College or other workforce development or training program serving the City of Newburgh residents for construction industry jobs within one (1) month of commencement of construction.

DRAFT