

CITY OF NEWBURGH  
INDUSTRIAL DEVELOPMENT AGENCY (IDA)  
MINUTES OF **SPECIAL** BOARD MEETING  
July 14, 2021

Present

Board Members: Austin DuBois, Chairman  
Christina Amato, Michael Kelly, Gregory Nato,  
Adam Pollick, Marlon Ramos, and Nancy Thomas

Staff: Cherisse Vickers, Executive Director  
Counsel: Robert McLaughlin and Catherine Kemp,  
Whiteman, Osterman and Hanna, LLP

GUESTS: Jacob Chai, The Foundry Phase 3 Project;  
Philippe Pierre, Charles Huebner, 104 Washington Street  
LLC Project  
Michelle Rider, Jacobowitz and Gubits LLP

1. **Roll Call**: Chairman Austin DuBois called the meeting to order and accepted the proof of notice of meeting.

2. **New Business**:

Resolution No. 2021-07-04-07, *Resolution Approving Revisions to Procurement Policy*.

Audit Committee Chair Marlon Ramos reported to the board that the committee met and reviewed the suggested revisions to the Procurement Policy so that the policy meets statutory thresholds:

- Increase the current dollar amount of \$20,000 for public works contracts to \$35,000
- Increase the current dollar amount of \$10,000 for purchase contracts to \$20,000.

These changes are also to be reflected Section B, numbers 5 and 6 respectively.

It is the recommendation of the Audit Committee that the board approve these changes to the Procurement Policy.

On a motion made by Nancy Thomas and seconded by Christina Amato, the board approves the changes to the Procurement Policy. A roll call of the resolution produced six (6) ayes; resolution passed.

The committee also recommends tabling the Internal Control Policy at this time as more information is needed, with the intent of having a draft for the board by the Fall.

3. **Executive Session**

On a motion made by Mike Kelly and seconded by Nancy Thomas, the board voted to go into Executive Session to discuss disposal of property and personnel items; unanimous vote.

On a motion made by Mike Kelly and seconded by Adam Pollick, the board voted to leave Executive Session; unanimous vote.

No formal actions or decisions were taken during Executive Session.

4. **Old Business**

There are several resolutions to come before the board concerning active projects that are asking for assistance.

104 Washington Street LLC Project

Philippe Pierre spoke with the board briefly about the project—that they have received site planning approval, his anticipation of board approvals, and the start of the project.

IDA Counsel Bob McLaughlin said that their SEQR has a negative declaration.

Resolution No. 2021-07-14-01, *SEQR Resolution, 104 Washington Street, LLC Project*

A roll call of this resolution resulted in six (6) ayes and one (1) abstention; resolution passes and approved.

Ayes: Austin DuBois, Nancy Thomas, Marlon Ramos, Michael Kelly, Adam Pollick, Gregory Nato

Abstention: Christina Amato

Resolution No. 2021-07-14-02, *Commercial/Retail Findings Resolution, 104 Washington Street, LLC Project*

A roll call of this resolution resulted in six (6) ayes and one (1) abstention; resolution passes and approved.

Ayes: Austin DuBois, Nancy Thomas, Marlon Ramos, Michael Kelly, Adam Pollick, Gregory Nato

Abstention: Christina Amato

Resolution No. 2021-07-14-03, *Approving Resolution, 104 Washington Street LLC Project*

A roll call of this resolution resulted in six (6) ayes and one (1) abstention; resolution passes and approved.

Ayes: Austin DuBois, Nancy Thomas, Marlon Ramos, Michael Kelly, Adam Pollick, Gregory Nato

Abstention: Christina Amato

The Foundry Phase 3 Project

Jacob Chai spoke briefly with the board about the project, sharing his excitement and letting everyone know that he recently closed on a house in the city.

Resolution No. 2021-07-14-04, *SEQR Resolution, The Foundry Phase 3, LP Project*

A roll call of this resolution resulted in six (6) ayes and one (1) abstention; resolution passes and approved.

Ayes: Austin DuBois, Nancy Thomas, Marlon Ramos, Michael Kelly, Adam Pollick, Gregory Nato

Abstention: Christina Amato

Resolution No. 2021-07-14-05, *Commercial/Retail Findings Resolution, The Foundry Phase 3, LP Project*

A roll call of this resolution resulted in six (6) ayes and one (1) abstention; resolution passes and approved.

Ayes: Austin DuBois, Nancy Thomas, Marlon Ramos, Michael Kelly, Adam Pollick, Gregory Nato

Abstention: Christina Amato

Resolution No. 2021-07-14-06, *Approving Resolution, The Foundry Phase 3, LP Project*

A roll call of this resolution resulted in six (6) ayes and one (1) abstention; resolution passes and approved.

Ayes: Austin DuBois, Nancy Thomas, Marlon Ramos, Michael Kelly, Adam Pollick, Gregory Nato

Abstention: Christina Amato

AMENDMENT TO Resolution No. 2021-07-14-03, *Approving Resolution, 104 Washington Street LLC Project*

Section 4, the agency grants the financial assistance including the sales tax exemption and mortgage recording tax exemption

A roll call of this resolution resulted in six (6) ayes and one (1) abstention; resolution passes and approved.

Ayes: Austin DuBois, Nancy Thomas, Marlon Ramos, Michael Kelly, Adam Pollick, Gregory Nato

Abstention: Christina Amato

5. **Executive Session**

On a motion made by Mike Kelly and seconded by Nancy Thomas, the board voted to go into Executive Session to discuss personnel items not discussed previously; unanimous vote.

On a motion made by Mike Kelly and seconded by Nancy Thomas, the board voted to leave Executive Session; unanimous vote.

No formal actions or decisions were taken during Executive Session

6. **Adjournment**

A motion to adjourn the board meeting was made by Nancy Thomas and seconded by Mike Kelly; unanimously passed.

**CITY OF NEWBURGH  
INDUSTRIAL DEVELOPMENT AGENCY**

**Resolution No. 2021-07-14-01**

**SEQR RESOLUTION  
104 WASHINGTON ST, LLC PROJECT**

A special meeting of City of Newburgh Industrial Development Agency (the “Agency”) was convened in public session at City Hall, 83 Broadway, Newburgh, New York on July 14, 2021 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:**

Austin DuBois	Chairperson
Nancy Thomas	Vice Chairperson
Marlon Ramos	Treasurer
Christina Amato	Secretary
Michael Kelly	Member
Adam Pollick	Member
Gregory Nato	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

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

The following resolution was offered by Michael Kelly, seconded by Nancy Thomas, to wit:

Resolution No. 2021-07-14-01

RESOLUTION DETERMINING THAT THE ACTION TO UNDERTAKE A PROJECT FOR  
THE BENEFIT OF 104 WASHINGTON ST, LLC WILL NOT HAVE A SIGNIFICANT  
EFFECT ON THE ENVIRONMENT

WHEREAS, 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" or the "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 and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, 104 Washington St, LLC, a New York limited liability company (the "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 (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project"), said Project consisting of the following: (A) the acquisition of an interest in an approximately 5,000 square foot parcel of real property located at 104 Washington Street, Newburgh, NY (the "Land"), (2) the construction on the Land of improvements consisting of an office or retail space with approximately 8 residential units (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, 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 (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") was designated to act as "lead agency" with respect to the Project on September 15, 2020, and (2) the Planning Board issued a Determination of Significance through the issuance of a Negative Declaration issued on October 20, 2020 and affirmed on May 18, 2020 (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 is an “involved agency” with respect to the Project and the Agency now desires to concur 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 to indicate whether the Agency has any 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, therefore, that no environmental impact statement need be prepared with respect to the Project.

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

Section 1. The Agency has received copies of, and has reviewed, the Application and the Negative Declaration (collectively, the “Reviewed Documents”) and, based upon said Reviewed Documents, the Agency hereby ratifies and concurs in the designation of the Planning Board as “lead agency” with respect to the Project under SEQRA (as such quoted term is defined in SEQRA).

Section 2. The Agency hereby determines that the Agency has 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 the SEQRA and, therefore, that an environmental impact statement need not be prepared with respect to the Project (as such quoted phrase is used in SEQRA).

Section 3. The Chairperson, any Vice Chairperson and/or Chief Executive Officer of the Agency is hereby directed to (A) send a copy of this Resolution to the chief executive officer of the City of Newburgh, New York; (B) send a copy of this Resolution to the Lead Agency; (C) send a copy of this Resolution to each entity identified by the Agency as an "involved agency" with respect to the Project (as such quoted term is used in SEQRA), (D) send a copy of this Resolution to the Company; (E) send a copy of this Resolution to each other person who has requested a copy of same, and (F) place a copy of this Resolution in the files of the Agency that are readily accessible to the public and made available on request.

Section 4. 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:

Austin DuBois	VOTING	Yea
Nancy Thomas	VOTING	Yea
Marlon Ramos	VOTING	Yea
Christina Amato	VOTING	Abstain
Michael Kelly	VOTING	Yea
Adam Pollick	VOTING	Yea
Gregory Nato	VOTING	Yea

The foregoing Resolution was thereupon declared duly adopted.





**CITY OF NEWBURGH  
PLANNING BOARD**

**Lisa Daily, Chairperson  
J.K. Gentile, Secretary**

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123 Grand Street, Newburgh, New York

Phone: (845) 569-7401 Fax: (845) 569-7435

**RESOLUTION OF THE CITY OF NEWBURGH PLANNING BOARD**

**LET IT BE RESOLVED**

At the Planning Board meeting held on May 18, 2021, the City of Newburgh Planning Board hereby moves to approve the following Site Plan, wherein the Applicant proposes to demolish the existing building and construct a mixed-use building with commercial space on the first floor and residential units on the remaining floors (Mixed-Use with Residential).

Index No.	2020-09
Applicant's Name	104 Washington St., LLC (by Philippe Pierre)
Property Owner	Newburgh Community Land Bank
Property Address	104 Washington Street (SBL 36-4-16)

**LET IT BE FURTHER RESOLVED**

That the above-referenced application includes a Land Development Application (form LDA01) (5 pages) received August 18, 2020, amended (7 pages) and received September 4, 2020, and is supported with the following documents:

1. Land Development Application - Site Plan (form PB01) (4 pages), received September 4, 2020;
2. Site Plan (4 pages), received August 18, 2020; amended (4 pages), received September 15, 2020; amended (8 pages), received September 25, 2020; amended (9 pages), received October 26, 2020; amended (13 pages), received March 31, 2021; and amended (13 pages), received April 2, 2021;
3. Survey (1 page), received October 21, 2020;
4. Full EAF, part I (15 pages), received August 18, 2020; revised (15 pages), received September 25, 2020;
5. Full EAF supporting document, Environmental Site Remediation Database Search (13 pages), received September 25, 2020;
6. Phase I Environmental Site Assessment (368 pages), received December 28, 2020;

7. Drainage Report – Partial SWPPP (74 pages), received November 6, 2020; revised (60 pages), dated March 26, 2021;
8. Applicant Response Letter (3 pages), dated October 26, 2020; revised (4 pages), dated November 6, 2020; revised (5 pages), dated March 26, 2021;
9. Comments of the New York State Department of Parks, Recreation, and Historic Preservation (2 pages), dated October 13, 2020;
10. Comments of the New York State Department of Environmental Conservation (e-mail correspondence, 2 pages), dated October 21, 2020;
11. Informational Inspection Report of the Building Inspector, dated June 11, 2020; revised September 1, 2020;
12. Comments of the City Planner, dated September 15, 2020; revised October 20, 2020, and May 18, 2021; and
13. Comments of the City Engineer, September 15, 2020; revised October 20, 2020, March 16, 2021, April 20, 2021, and May 18, 2021.

#### LET IT BE FURTHER RESOLVED

That the Planning Board makes the following findings:

1. The Planning Board has jurisdiction to review and approve the application.
2. The Applicant made an application to the Planning Board for Site Plan approval construct a mixed-use building with commercial space on the first floor and residential units on the remaining floors (Mixed-Use with Residential). The Applicant filed a Land Development Application and various exhibits in a manner and form acceptable to the City Engineer, City Planner, and Planning Board. The Application and subsequent submissions were reviewed by the Planning Board and made available to the public.
3. The subject property is located in the Downtown Neighborhood (DN) zone.
4. The proposed use is allowed pending Site Plan approval from the Planning Board.
5. The Planning Board first reviewed the application materials for the completeness on September 15, 2020. The Planning Board deemed the application substantially complete on May 18, 2021.
6. The Planning Board, pursuant to City Code Section 300-90, convened a public hearing on October 20, 2020 and completed the public hearing on the same date.
7. The action is a Type I action pursuant to the State Environmental Quality Review Act (“SEQRA”). The Applicant completed and filed Part I of the Full EAF, pursuant to the State Environmental Quality Review Act (“SEQRA”). The Planning Board completed Parts 2 and

3 of the Full EAF. The Planning Board declared its intent to act as Lead Agency for environmental review on September 15, 2020. The Planning Board declared itself as the Lead Agency for the environmental review of the Project pursuant to 6 NYCRR 617.6 on October 20, 2020. The Planning Board determined, based upon an examination of the Full EAF and other available supporting information and considering the magnitude and importance of each area of environmental concern, and based on the City's knowledge of the location of the Project, that the granting of the application would not have a significant adverse environmental impact, would not require the preparation of a Draft Environmental Impact Statement. The Planning Board further found no areas of potentially large impact of environmental concern that cannot be mitigated, and as such, issued a Negative Declaration pursuant to SEQRA with respect to the impact of the Project upon the environment on October 20, 2020 and affirmed its decision based on minor project revisions on May 18, 2021. Copies of the Full EAF parts 1, 2 and 3 are attached as Exhibit A.

8. The Planning Board found that the City of Newburgh Architectural Review Commission approved the historic demolition of the current structure on the premises and approved the exterior design elements of the proposed new construction.
9. The Planning Board found that the City of Newburgh Zoning Board of Appeals granted required area variances necessary for completion of the project.
10. The Planning Board found, based on a review of the materials submitted, representations made by the Applicant, and discussions had at the Planning Board meetings, that the Site Plan should be approved as submitted, subject to conditions as articulated below.

#### LET IT BE FURTHER RESOLVED

That the Applicant's approval is subject to the following conditions:

1. The Applicant shall satisfy all comments set forth in the Informational Inspection Report of the Building Inspector, dated June 11, 2020; revised September 1, 2020;
2. The Applicant shall satisfy all comments set forth in the Comment Letter of the City Planner, dated September 15, 2020; revised October 20, 2020, and May 18, 2021; and
3. The Applicant shall satisfy all comments set forth in the Comment Letter of the City Engineer, dated September 15, 2020; revised October 20, 2020, March 16, 2021, April 20, 2021, and May 18, 2021.

Planning Board Votes (Index No. 2021-09)

Moved by: Alicia Ware

Seconded by: Heather Moore

	Aye	Nay	Abstain
Lisa Daily, Chairperson	<u>✓</u>	_____	_____
Heather Moore, Member	<u>✓</u>	_____	_____
Rich Rosencrans, Member	<u>✓</u>	_____	_____
Duane Ware, Member	<u>✓</u>	_____	_____
Alicia Ware, Member	<u>✓</u>	_____	_____
Michael Kelly, Member	Absent		
Sarah Hooff, Member	Absent		

Dated: May 18, 2021

  
 \_\_\_\_\_  
 LISA DAILY  
 CHAIRPERSON, CITY PLANNING BOARD

ATTENTION APPLICANTS

FURTHER COMPLIANCE WITH THE NEWBURGH ZONING ORDINANCE REMAINS YOUR RESPONSIBILITY. SITE PLAN APPROVAL BY THE PLANNING BOARD IS NOT THE EQUIVALENT OF A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY, BOTH OF WHICH CAN ONLY BE SECURED THROUGH THE CITY OF NEWBURGH DEPARTMENT OF CODE COMPLIANCE.

**Full Environmental Assessment Form**  
**Part 2 - Identification of Potential Project Impacts**

Agency Use Only [If applicable]  
 Project : 2020-09  
 Date : May 18, 2021

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency and the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

**Tips for completing Part 2:**

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer "Yes" to a numbered question, please complete all the questions that follow in that section.
- If you answer "No" to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box "Moderate to large impact may occur."
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the "whole action".
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

<b>1. Impact on Land</b> Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1) <span style="float: right;"><input type="checkbox"/> NO <input checked="" type="checkbox"/> YES</span> <i>If "Yes", answer questions a - j. If "No", move on to Section 2.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

**2. Impact on Geological Features**  
The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g)  NO  YES  
*If "Yes", answer questions a - c. If "No", move on to Section 3.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____ _____	E2g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

**3. Impacts on Surface Water**  
The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h)  NO  YES  
*If "Yes", answer questions a - l. If "No", move on to Section 4.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	<input type="checkbox"/>	<input type="checkbox"/>

I. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
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**4. Impact on groundwater**  
 The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer.  
 (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t)  
*If "Yes", answer questions a - h. If "No", move on to Section 5.*

NO       YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____ _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>

**5. Impact on Flooding**  
 The proposed action may result in development on lands subject to flooding.  
 (See Part 1. E.2)  
*If "Yes", answer questions a - g. If "No", move on to Section 6.*

NO       YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in development within a 100 year floodplain.	E2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in development within a 500 year floodplain.	E2k	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	<input type="checkbox"/>	<input type="checkbox"/>
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	<input type="checkbox"/>	<input type="checkbox"/>

g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
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<b>6. Impacts on Air</b> The proposed action may include a state regulated air emission source. (See Part 1. D.2.f., D.2.h, D.2.g) <i>If "Yes", answer questions a - f. If "No", move on to Section 7.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels: i. More than 1000 tons/year of carbon dioxide (CO <sub>2</sub> ) ii. More than 3.5 tons/year of nitrous oxide (N <sub>2</sub> O) iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs) iv. More than .045 tons/year of sulfur hexafluoride (SF <sub>6</sub> ) v. More than 1000 tons/year of carbon dioxide equivalent of hydrochlorofluorocarbons (HFCs) emissions vi. 43 tons/year or more of methane	D2g D2g D2g D2g D2g D2h	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

<b>7. Impact on Plants and Animals</b> The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.) <i>If "Yes", answer questions a - j. If "No", move on to Section 8.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	<input type="checkbox"/>	<input type="checkbox"/>



e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____	E1b	<input type="checkbox"/>	<input type="checkbox"/>
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	<input type="checkbox"/>	<input type="checkbox"/>
j. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

<b>8. Impact on Agricultural Resources</b>			
The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.)		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
<i>If "Yes", answer questions a - h. If "No", move on to Section 9.</i>			
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1 a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

<b>9. Impact on Aesthetic Resources</b> The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.) <i>If "Yes", answer questions a - g. If "No", go to Section 10.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q, E1c	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile 1/2 -3 mile 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	<input type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

<b>10. Impact on Historic and Archeological Resources</b> The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.) <i>If "Yes", answer questions a - e. If "No", go to Section 11.</i>			
		<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on or has been nominated by the NYS Board of Historic Preservation for inclusion on the State or National Register of Historic Places.	E3e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. Other impacts: _____ _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. If any of the above (a-d) are answered "Moderate to large impact may occur", continue with the following questions to help support conclusions in Part 3:			
i. The proposed action may result in the destruction or alteration of all or part of the site or property.	E3e, E3g, E3f	<input type="checkbox"/>	<input type="checkbox"/>
ii. The proposed action may result in the alteration of the property's setting or integrity.	E3e, E3f, E3g, E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3f, E3g, E3h, C2, C3	<input type="checkbox"/>	<input type="checkbox"/>

<b>11. Impact on Open Space and Recreation</b>			
The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan. (See Part 1. C.2.c, E.1.c., E.2.q.) <i>If "Yes", answer questions a - e. If "No", go to Section 12.</i>		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>
a. The proposed action may result in an impairment of natural functions, or "ecosystem services", provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b, E2h, E2m, E2o, E2n, E2p	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c, E1c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	<input type="checkbox"/>	<input type="checkbox"/>
e. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

<b>12. Impact on Critical Environmental Areas</b>			
The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d) <i>If "Yes", answer questions a - c. If "No", go to Section 13.</i>		<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____ _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>

**13. Impact on Transportation**  
 The proposed action may result in a change to existing transportation systems.  NO  YES  
 (See Part 1. D.2.j)  
*If "Yes", answer questions a - f. If "No", go to Section 14.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action will degrade existing transit access.	D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>

**14. Impact on Energy**  
 The proposed action may cause an increase in the use of any form of energy.  NO  YES  
 (See Part 1. D.2.k)  
*If "Yes", answer questions a - e. If "No", go to Section 15.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Other Impacts: _____ _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>

**15. Impact on Noise, Odor, and Light**  
 The proposed action may result in an increase in noise, odors, or outdoor lighting.  NO  YES  
 (See Part 1. D.2.m., n., and o.)  
*If "Yes", answer questions a - f. If "No", go to Section 16.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in routine odors for more than one hour per day.	D2o	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. The proposed action may result in light shining onto adjoining properties.	D2n	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>

<b>16. Impact on Human Health</b> The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part 1.D.2.q., E.1. d. f. g. and h.) <i>If "Yes", answer questions a - m. If "No", go to Section 17.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	<input type="checkbox"/>	<input type="checkbox"/>
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g E1h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	<input type="checkbox"/>	<input type="checkbox"/>
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	<input type="checkbox"/>	<input type="checkbox"/>
m. Other impacts: _____ _____			

<b>17. Consistency with Community Plans</b> The proposed action is not consistent with adopted land use plans. (See Part 1. C.1, C.2. and C.3.) <i>If "Yes", answer questions a - h. If "No", go to Section 18.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, E1b	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	<input type="checkbox"/>	<input type="checkbox"/>
h. Other: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

<b>18. Consistency with Community Character</b> The proposed project is inconsistent with the existing community character. (See Part 1. C.2, C.3, D.2, E.3) <i>If "Yes", answer questions a - g. If "No", proceed to Part 3.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	<input type="checkbox"/>	<input type="checkbox"/>
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	<input type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

Project Number: PB 2020-09  
Property Address: 104 Washington Street  
Date of Action: May 18, 2021  
Supplement to SEQRA Full EAF, Section III

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The Newburgh Community Land Bank, in concert with the 104 Washington St. LLC, proposes to demolish an existing, dilapidated structure on the premises and construct a new, mixed-use property with ground floor commercial space and 29 residential units on the remaining floors above.

The entire parcel size is 50' x 100'. The proposed use and proposed building area does not encroach on any environmentally-sensitive areas within the City's limits. The project will not disturb any plant or animal species. The project will require energy and other resources to attain compliance with State and Local building code regulations. However, this usage will be short term in nature and in line with construction projects of this type.

The project does plan for any on-site parking, as the project's intent is to maximize usable building space and other forms of non-motorized transportation in and around the neighborhood. The project also proposes to rehabilitate the sidewalks in front of the building to further promote pedestrian traffic. There are/will be sufficient and adequate parking options available in the neighborhood and the proposed use will not adversely affect traffic or parking in the district. Off-street parking issues were also reviewed and approved by the City of Newburgh Zoning Board of Appeals.

Exterior lighting, massing, and historical design issues were reviewed and approved by the City of Newburgh Architectural Review Commission.

The proposed plan includes details for bioswales, plantings, erosion and sediment control, water, and sanitary sewer, all in a manner and form acceptable to the Planning Board and the City Engineer.

Upon completion, and once occupied, there will also be a minor increase in energy use, water use, and sewer systems commensurate with consumers attending the restaurant. The proposed use is commensurate with the community objectives and aesthetic, and in line with the promotion of the types of uses contemplated by the City's current zoning regulations. The Planning Board determines that there will be no significant long term impact on energy use, water, or sewer supply and/or systems.

In sum, the Planning Board determined that there would be no significant long term impact on energy use, water, or sewer supply and/or systems based on the size and scope of the project.

Project : PB 2020-09

Date : May 18, 2021

***Full Environmental Assessment Form***  
***Part 3 - Evaluation of the Magnitude and Importance of Project Impacts***  
***and***  
***Determination of Significance***

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

**Reasons Supporting This Determination:**

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

See attached.

**Determination of Significance - Type 1 and Unlisted Actions**

SEQR Status:  Type 1  Unlisted

Identify portions of EAF completed for this Project:  Part 1  Part 2  Part 3



Upon review of the information recorded on this EAF, as noted, plus this additional support information

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the  
City of Newburgh Planning Board \_\_\_\_\_ as lead agency that:

A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.d).

C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: Application No.: 2020-09

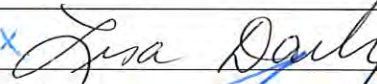
Name of Lead Agency: City of Newburgh Planning Board

Name of Responsible Officer in Lead Agency: Lisa Daily



Title of Responsible Officer: Chairperson

Signature of Responsible Officer in Lead Agency:



Date:

Signature of Preparer (if different from Responsible Officer)



Date:

May 18, 2021

**For Further Information:**

Contact Person: Jeremy Kaufman

Address: 83 Broadway, Newburgh, NY 12550

Telephone Number: 845-569-7335

E-mail: [jkaufman@cityofnewburgh-ny.gov](mailto:jkaufman@cityofnewburgh-ny.gov)

**For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:**

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

**PRINT FULL FORM**

**CITY OF NEWBURGH  
INDUSTRIAL DEVELOPMENT AGENCY  
Resolution No. 2021-07-14-02**

**COMMERCIAL/RETAIL FINDINGS RESOLUTION  
104 WASHINGTON ST, LLC PROJECT**

A special meeting of City of Newburgh Industrial Development Agency (the "Agency") was convened in public session at City Hall, 83 Broadway, Newburgh, New York on July 14, 2021 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:**

Austin DuBois	Chairperson
Nancy Thomas	Vice Chairperson
Marlon Ramos	Treasurer
Christina Amato	Secretary
Michael Kelly	Member
Adam Pollick	Member
Gregory Nato	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

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

The following resolution was offered by Michael Kelly, seconded by Marlon Ramos, to wit:

Resolution No. 2021-07-14-02

**RESOLUTION (A) DETERMINING THAT THE PROPOSED THE 104  
WASHINGTON ST, LLC PROJECT IS A COMMERCIAL PROJECT, AND**

(B) MAKING CERTAIN FINDINGS REQUIRED UNDER THE GENERAL MUNICIPAL LAW.

WHEREAS, 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" or the "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, 104 Washington St, LLC, a New York limited liability company (the "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 (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project"), said Project consisting of the following: (A) the acquisition of an interest in an approximately 5,000 square foot parcel of real property located at 104 Washington Street, Newburgh, NY (the "Land"), (2) the construction on the Land of improvements consisting of an office or retail space with approximately 29 residential units (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, on September 21, 2020 pursuant to Resolution No. 2020-09-21-01 (the "First Public Hearing Resolution"), the Agency authorized the holding of a public hearing on the Project and the requested financial assistance; and

WHEREAS, pursuant to the authorization contained in the First Public Hearing Resolution, 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 and hand delivered on December 7, 2020 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located; (B)

caused notice of the First Public Hearing to be posted on December 7, 2020 on a bulletin board located at City Hall located at 83 Broadway in the City of Newburgh, Orange County, New York and to the Agency website on December 7, 2020; (C) caused notice of the First Public Hearing to be published on December 9, 2020 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 December 17, 2020 at 5:00 o'clock p.m., local time by video conference call duly noticed in accordance with the Governor's Executive Order 202.1 and 202.15, as amended and extended; and (E) prepared a report of the First Public Hearing (the "First Hearing Report") fairly summarizing the views presented at such First Public Hearing and caused copies of said First Hearing Report to be made available to the members of the Agency; and

WHEREAS, on or about April 20, 2021, the Company submitted a revised application (the "Revised Application" and together with the Application, the "Application") to the Agency for the Project; and

WHEREAS, to comply with the provisions of Section 859-a of the Act with respect to the Project, the Agency by resolution adopted by the members of the Agency on May 17, 2021 (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

WHEREAS, pursuant to the authorization contained in the Second Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the "Second 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 May 21, 2021 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 May 21, 2021 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 May 31, 2021 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 June 10, 2021 at 4:30 p.m., local time by video conference call duly noticed in accordance with the Governor's Executive Order 202.1 and 202.15, as amended and extended; and (E) will prepare a report of the Second Public Hearing (the "Second Public Hearing Report") fairly summarizing the views presented at such Second Public Hearing and shall cause copies of said Second Public Hearing Report to be made available to the members of the Agency; 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 (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") was designated to act as "lead agency" with respect to the Project on September 15, 2020, (2) the Planning Board issued a Determination of Significance through the issuance of a Negative Declaration issued on October 20, 2020 and affirmed on May 18, 2020 (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 (3) the Agency determined by resolution dated July 14, 2021 after appropriate review to (A) ratify and confirm the lead agency designation of the Planning Board and (B) find that there was 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 the SEQRA; and

WHEREAS, in Opinion of the State Comptroller Number 85-51, the State Comptroller indicated that the determination whether a project that consists of the construction of an apartment house is a commercial activity within the meaning of the Act is to be made by local officials based upon all of the facts relevant to the proposed project, and that any such determination should take into account the stated purpose of the Act, that is, the promotion of employment opportunities and the prevention of economic deterioration; and

WHEREAS, the Project consists of an abandoned and unstable masonry building that has been allowed to deteriorate for more than forty (40) years; 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, including the attached Financial Impact Studies; (B) the transcript of the Public Hearings held on December 17, 2020 and June 10, 2021 and the public comments in support expressed thereat; and (C) various approvals for the Project issued by governmental departments of the City of Newburgh demonstrating public and official support for the Project (the "Local Support");

WHEREAS, the Agency has given due consideration to the fact that the Project is located within a census tract in the City of Newburgh which is considered to be a distressed census tract and therefore is in a "highly distressed area", as that term is defined in Section 854(18) of the Act; 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;

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

Section 1. Based upon an examination of the Project Qualification Documents and based further upon the Agency's knowledge of the area surrounding the Project and such further investigation of the Project and its economic effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations with respect to the Project:

A. The Project is located in an area having a mixture of residential, tourism, commercial, retail, and service uses.

B. The Master Plan for the City of Newburgh makes the following comments/findings regarding housing in the City of Newburgh:

- Encourage investment in urban land and buildings for employment and housing through development, redevelopment, rehabilitation and adaptive reuse
- Provide and maintain intergenerational life cycle housing options
- Encourage mixed income housing options throughout the City of Newburgh
- Promote quality affordable housing
- Increase job opportunities for all residents
- Increase commercial locations within the Local Waterfront Area to promote further industry and commercial development

C. That undertaking the Project is consistent with the Master Plan and will assist and maintain current and future residential and commercial development and expansion in the neighborhood area.

D. The undertaking of the Project is within the boundary identified by the City's Local Waterfront Revitalization Program.

E. That the Local Support further demonstrates the positive commercial and economic development impacts of undertaking the Project and granting the Financial Assistance.

F. The Company has informed representatives of the Agency that the Project is expected to create approximately twenty (20) construction jobs and approximately five to ten (5-10) full time permanent, private sector jobs created by commercial tenant(s) at the Project.

G. The Company has informed representatives of the Agency that the Company is not aware of any adverse employment impact caused by the undertaking of the Project.

Section 2. Based upon the foregoing review of the Project Qualification Documents, including the local support, and based further upon the Agency's knowledge of the area surrounding the Project Facility and such further investigation of the Project and its economic effects as the Agency has deemed appropriate, the Agency makes the following determinations with respect to the Project:

A. That the Project is located in a "highly distressed area" (as defined in the Act).

B. That (1) the Project Facility will provide necessary infrastructure for area employers and businesses, (2) the completion of the Project Facility will have an positive impact upon the creation, retention and expansion of employment opportunities in the City of Newburgh and in the State of New York, and (3) the completion of the Project will assist in (i) promoting employment opportunities and (ii) assist in preventing economic deterioration in the City of Newburgh and in the State of New York.

C. That the Project involves the creation of approximately 1,775 to 4,000 square feet of commercial office space.

D. That 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.

E. That the Project constitutes a "commercial" project, within the meaning of the Act.

F. That 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.

Section 3. Having reviewed the First Public Hearing Report and the Second Public Hearing Report, and having considered fully all comments contained therein, and based upon the findings contained in Section 1 above, the Agency hereby determines to proceed with the Project and the granting of the financial assistance described in the respective notices of the First Public Hearing and the Second Public Hearing.

Section 4. 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:

Austin DuBois	VOTING	<u>Yes</u>
Nancy Thomas	VOTING	<u>Yes</u>
Marlon Ramos	VOTING	<u>Yes</u>
Christina Amato	VOTING	<u>Abstain</u>
Michael Kelly	VOTING	<u>Yes</u>
Adam Pollack	VOTING	<u>Yes</u>
Gregory Nato	VOTING	<u>Yes</u>

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK

) SS.:

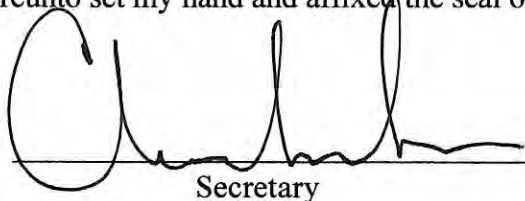
COUNTY OF ORANGE

I, the undersigned (Assistant) Secretary of 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 July 14, 2021 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 26 day of July, 2021.



Secretary

(SEAL)



**CITY OF NEWBURGH  
INDUSTRIAL DEVELOPMENT AGENCY**

**Resolution No. 2021-07-14-03**

**APPROVING RESOLUTION  
104 WASHINGTON ST, LLC PROJECT**

A special meeting of City of Newburgh Industrial Development Agency (the "Agency") was convened in public session at City Hall, 83 Broadway, Newburgh, New York on July 14, 2021 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:**

Austin DuBois	Chairperson
Nancy Thomas	Vice Chairperson
Marlon Ramos	Treasurer
Christina Amato	Secretary
Michael Kelly	Member
Adam Pollick	Member
Gregory Nato	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

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

The following resolution was offered by Member Adam Pollick, seconded by Member Gregory Nato, to wit:

Resolution No. 2021-07-14-03

RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION WITH A LEASE/LEASEBACK TRANSACTION FOR A PROJECT AND PROJECT ASSIGNMENT FOR 104 WASHINGTON ST, LLC PROJECT (THE "COMPANY").

WHEREAS, 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" or the "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, 104 Washington St, LLC, a New York limited liability company (the "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 (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project"), said Project consisting of the following: (A) the acquisition of an interest in an approximately 5,000 square foot parcel of real property located at 104 Washington Street, Newburgh, NY (the "Land"), (2) the construction on the Land of improvements consisting of an office or retail space with approximately 29 residential units (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, on September 21, 2020 pursuant to Resolution No. 2020-09-21-01 (the "First Public Hearing Resolution"), the Agency authorized the holding of a public hearing on the Project and the requested financial assistance; and

WHEREAS, pursuant to the authorization contained in the First Public Hearing Resolution, 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 and hand delivered on December 7, 2020 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located; (B) caused notice of the First Public Hearing to be posted on December 7, 2020 on a bulletin board located at City Hall located at 83 Broadway in the City of Newburgh, Orange County, New York

and to the Agency website on December 7, 2020; (C) caused notice of the First Public Hearing to be published on December 9, 2020 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 December 17, 2021 at 5:00 o'clock p.m., local time by video conference call duly noticed in accordance with the Governor's Executive Order 202.1 and 202.15, as amended and extended; and (E) prepared a report of the First Public Hearing (the "First Hearing Report") fairly summarizing the views presented at such First Public Hearing and caused copies of said First Hearing Report to be made available to the members of the Agency; and

WHEREAS, on or about April 20, 2021, the Company submitted a revised application (the "Revised Application" and together with the Application, the "Application") to the Agency for the Project; and

WHEREAS, to comply with the provisions of Section 859-a of the Act with respect to the Project, the Agency by resolution adopted by the members of the Agency on May 17, 2021 (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

WHEREAS, pursuant to the authorization contained in the Second Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the "Second 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 May 21, 2021 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 May 21, 2021 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 May 31, 2021 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 June 10, 2021 at 4:30 p.m., local time by video conference call duly noticed in accordance with the Governor's Executive Order 202.1 and 202.15, as amended and extended; and (E) will prepare a report of the Second Public Hearing (the "Second Public Hearing Report") fairly summarizing the views presented at such Second Public Hearing and shall cause copies of said Second Public Hearing Report to be made available to the members of the Agency; 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 (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") was designated to act as "lead agency" with respect to the Project on September 15, 2020, (2) the Planning Board issued a Determination of Significance through the issuance of an Negative Declaration issued on October 20, 2020 and affirmed on May 18, 2021 (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 (3) the Agency determined by resolution dated July 14, 2021 after appropriate review to (A) ratify and confirm the lead agency designation of the Planning Board and (B) find that there was 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 the SEQRA; and

WHEREAS, in Opinion of the State Comptroller Number 85-51, the State Comptroller indicated that the determination whether a project that consists of the construction of an apartment house is a commercial activity within the meaning of the Act is to be made by local officials based upon all of the facts relevant to the proposed project, and that any such determination should take into account the stated purpose of the Act, that is, the promotion of employment opportunities and the prevention of economic deterioration; and

WHEREAS, the Project consist of making improvements to a currently vacant structure which is unstable and has been abandoned for more than forty (40) years; 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, including the attached Financial Impact Studies; (B) the transcript of the Public Hearings held on November 20, 2020 and June 10, 2021 and the public comments in support expressed thereat; and C) various approvals for the Project issued by governmental departments of the City of Newburgh demonstrating public and official support for the Project (the "Local Support"); and

WHEREAS, the Agency has given due consideration to the fact that the Project is located within a census tract in the City of Newburgh which is considered to be a distressed census tract and therefore is in a "highly distressed area", as that term is defined in Section 854(18) of the Act; 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, pursuant to Resolution No. 2021-07-14-02, the Agency has determined: (A) the Project is located in an area having a mixture of residential, tourism, commercial, retail, and service uses; (B) the Master Plan for the City of Newburgh makes the following comments/findings regarding housing in the City of Newburgh: (i) encourage investment in urban land and buildings for employment and housing through development, redevelopment, rehabilitation and adaptive reuse, (ii) provide and maintain intergenerational life cycle housing options, (iii) encourage mixed income housing options throughout the City of Newburgh, (iv) promote quality affordable housing, (v) increase job opportunities for all residents, and (vi) increase commercial locations within the Local Waterfront Area to promote further industry and commercial development; (C) the undertaking of the Project is consistent with the Master Plan and will assist and maintain current and future residential and commercial development and expansion in the neighborhood area; (D) the Project is within the boundary identified in the City's Local Waterfront Revitalization Program; (E) the Local Support further demonstrates the positive commercial and economic development impacts of undertaking the Project and granting the Financial Assistance; (F) the Company has informed representatives of the Agency that the Project is expected to create approximately twenty (20) construction jobs and approximately five to ten (5-10) full time permanent, private sector jobs created by commercial tenant(s) at the Project; (G)

the Company has informed representatives of the Agency that the Company is not aware of any adverse employment impact caused by the undertaking of the Project; (H) the Project is located in a "highly distressed area" (as defined in the Act); (I) (i) the Project Facility will provide necessary infrastructure for area employers and businesses, (ii) the completion of the Project Facility will have an positive impact upon the creation, retention and expansion of employment opportunities in the City of Newburgh and in the State of New York, and (iii) the completion of the Project will assist in (i) promoting employment opportunities and (ii) assist in preventing economic deterioration in the City of Newburgh and in the State of New York; (J) the Project involves the creation of approximately 1,775-4,000 square feet of commercial office space; (K) 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; (L) the Project constitutes a "commercial" project, within the meaning of the Act; and (M) 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.

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 member(s) or staff of the Agency with respect to the public hearings with respect to the Project and the Financial Assistance is hereby ratified and confirmed.

Section 2. All actions taken by the Chairperson and/or member(s) or staff of the Agency with respect to the Deviation Notice with respect to the Project and the Pilot Request is hereby ratified and confirmed.

Section 3. 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 4. 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; and

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

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

(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 \$5,600,000.00; and

(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; and

(F) 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 for area employers and businesses, (2) the completion of the Project Facility will have an impact upon the creation, retention and expansion of employment opportunities in the City of Newburgh and in the State of New York, (3) the Project involves approximately 1,775-4,000 square feet of commercial office space; and (4) 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; (iii) 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; (iv) the Project constitutes a "commercial" project, within the meaning of the Act; and (v) 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; and

(G) 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; and

(H) 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; and

(I) 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, and the written comments and opinions submitted to the Agency by members of the public and various public entities and public officials, and has fully considered all comments contained therein. 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.

(J) 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 (i) the Company's statement that the Project will not proceed without such Financial Assistance, and (ii) the Agency's Uniform Criteria for the Evaluation of Projects Policy and the Pilot Request contained in the Deviation Notice, the cost benefit analysis 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

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

Section 5. 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 6. 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 7. The Payment in Lieu of Tax Agreement shall contain the following schedule of payments:

SEE FOLLOWING PAGE

<u>TAX YEAR</u>	<u>PILOT Payment</u>
1	\$3,225.00
2	6,158.00
3	9,060.00
4	11,962.00
5	14,865.00
6	17,767.00
7	20,670.00
8	23,572.00
9	26,475.00
10	38,085.00
11	49,694.00
12	55,499.00
13	72,914.00
14	72,914.00
15	96,134.00
<b><u>TOTAL</u></b>	<b><u>\$519,024.00</u></b>

Section 8. 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 9. (A) The Chairperson (or Vice Chairperson) 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 10. 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 11. This Resolution shall take effect immediately.

**REMAINDER OF PAGE INTENTIONALLY BLANK**

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

Austin DuBois	VOTING	YES
Nancy Thomas	VOTING	YES
Marlon Ramos	VOTING	YES
Christine Amato	VOTING	ABSTAIN
Michael Kelly	VOTING	YES
Adam Pollack	VOTING	YES
Gregory Nato	VOTING	YES

The foregoing Resolution was thereupon declared duly adopted.

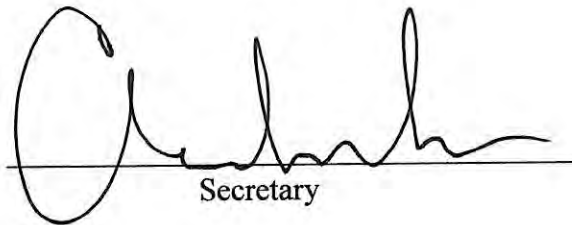
STATE OF NEW YORK     )  
  ) SS.:  
COUNTY OF ORANGE     )

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 July 14, 2021 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 26 day of July 2021.

  
Secretary

(SEAL)

## EXHIBIT A

### DESCRIPTION OF THE EXPECTED PUBLIC BENEFITS

In the discussions had between the Project Beneficiary (Foundry Phase II, LP), 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	Five to ten (5-10) new full time equivalent new jobs at the commercial tenant(s) at the Project Facility within two (2) years of competition of the project.
3.	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 20 full time equivalent construction jobs at the Project Facility for local labor during an estimated construction period of 24 months, commencing within six (6) to nine (9) months of the date of the Approving Resolution for the Project.
4.	Private sector investment	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$3,675,000 at the Project Facility within eighteen months (18) of the date of the Approving Resolution for the Project.
5.	Creation of new revenues for local taxing jurisdictions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$519,024.00 of new revenues for local taxing jurisdictions and special districts with respect to the Project Facility within 15 years of the date of commencement of Project operations by the Project Beneficiary.

## 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 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 six (6) to nine (9) 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 2 years of the commencement of construction for the Project.
3.	Failure by the Project Beneficiary to document to the satisfaction of the Agency the creation of at least 80% of the average full time equivalent local labor construction jobs at the Project Facility listed on Exhibit A during the construction period described on <b>Exhibit A</b> .
4.	Failure by the Project Beneficiary to document to the satisfaction of the Agency the creation of at least 80% of the full time equivalent new jobs at the Project Facility listed on <b>Exhibit A</b> .
5.	Failure by the Project Beneficiary to document to the satisfaction of the Agency that at least 80% of the private sector investment described on <b>Exhibit A</b> occurred with respect to the Project Facility within 2 years of the date of the Approving Resolution for the Project.
6.	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 <b>Exhibit A</b> attached hereto were created within 15 years of the date of commencement of Project operations 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 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.
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.
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.	An unremedied failure by the Project Beneficiary to comply with the New York Department of Homes and Community Renewal's Small Building Participation Loan Program for Affordable rental units.
15.	Failure of the Project Beneficiary to create at least to create at least 1,775 square feet of ground floor, street facing commercial space.

**CITY OF NEWBURGH  
INDUSTRIAL DEVELOPMENT AGENCY  
Resolution No. 2021-07-14-04**

**SEQRA RESOLUTION  
THE FOUNDRY PHASE 3, LP PROJECT**

A special meeting of City of Newburgh Industrial Development Agency (the "Agency") was convened in public session at City Hall, 83 Broadway, Newburgh, New York on July 14, 2021 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:**

Austin DuBois	Chairperson
Nancy Thomas	Vice Chairperson
Marlon Ramos	Treasurer
Christina Amato	Secretary
Michael Kelly	Member
Adam Pollick	Member
Gregory Nato	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

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

The following resolution was offered by Michael Kelly, seconded by Marlon Ramos, to wit:

Resolution No. 2021-07-14-04

**RESOLUTION DETERMINING THAT THE ACTION TO UNDERTAKE A PROJECT FOR  
THE BENEFIT OF THE FOUNDRY PHASE 3, LP WILL NOT HAVE A SIGNIFICANT  
EFFECT ON THE ENVIRONMENT**

WHEREAS, 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" or the "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 and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, The Foundry Phase 3, LP, a New York limited partnership (the "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 (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project"), said Project consisting of the following: (A) the acquisition of an interest in an approximately 76,841 square foot parcel of real property located at 43-45 Edward Street, Newburgh, NY (the "Land"), (2) the rehabilitation and improvement of the existing structures on the Land of improvements consisting of 59 residential units to be rented as multifamily apartments (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 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, pursuant to Article 8 of the New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 N.Y.C.R.R. Part 617.1, et. seq., as amended (the "Regulations" and collectively "SEQRA"), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to undertake the Project; and

WHEREAS, pursuant to SEQRA, the Agency is an involved agency in the SEQRA review of the Project, and as an involved agency is required to analyze the Project to determine whether it has the potential to have a significant adverse impact on the environment; and



WHEREAS, to aid the Agency in its review pursuant to SEQRA, the Foundry Phase 3, LP submitted an Environmental Assessment Form and related documents (the "EAF"), a copy of which is on file at the office of the Agency.

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

Section 1. Based upon an examination of the EAF, and based further upon the Agency's knowledge of the area surrounding the Project Facility and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings with respect to the Project:

A. The project (the "Project") consists of the following: (A) the acquisition of an interest in an approximately 76,841 square foot parcel of real property located at 43-45 Edward Street, Newburgh, NY (the "Land"), (2) the rehabilitation and improvement of the existing structures on the Land of improvements consisting of 59 residential units to be rented as multifamily apartments (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 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.

B. No potentially significant impacts on the environment are noted in the EAF, and none are known to the Agency; the Agency notes that the Planning Board approved the Project and completed a SEQRA coordinated review more than 20 years previously.

Section 2. Based upon the foregoing investigation of the potential environmental impacts of the Project and considering both the magnitude and importance of each environmental impact therein indicated, the Agency makes the following findings and determinations with respect to the Project:

A. The Project constitutes an "Unlisted Action" (as said quoted term is defined in the Regulations) and therefore coordinated review and notification of other involved agencies is strictly optional. The Agency hereby determines not to undertake a coordinated review of the Project, and therefore will not seek lead agency status with respect to the Project; and

B. The Project will result in no major impacts and, therefore, is one which will not cause significant damage to the environment. The Project consists entirely of the completion of renovations to existing structures in partial states of improvement. Therefore, the Agency hereby determines that the Project will not have a significant effect on the environment, and the Agency will not require the preparation of an environmental impact statement with respect to the Project; and

C. As a consequence of the foregoing, the Agency has decided to prepare a negative declaration with respect to the Project.

Section 3. The Chairperson, any Vice Chairperson and/or Chief Executive Officer of the Agency is hereby directed to (A) send a copy of this Resolution to the chief executive officer of the City of Newburgh, New York; (B) send a copy of this Resolution to the Lead Agency; (C) send a copy of this Resolution to each entity identified by the Agency as an "involved agency" with respect to the Project (as such quoted term is used in SEQRA), (D) send a copy of this Resolution to the Company; (E) send a copy of this Resolution to each other person who has requested a copy of same, and (F) place a copy of this Resolution in the files of the Agency that are readily accessible to the public and made available on request.

Section 4. 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:

Austin DuBois	VOTING	Yes
Nancy Thomas	VOTING	Yes
Marlon Ramos	VOTING	Yes
Christina Amato	VOTING	Abstain
Michael Kelly	VOTING	Yes
Adam Pollick	VOTING	Yes
Gregory Nato	VOTING	Yes

The foregoing Resolution was thereupon declared duly adopted.



**CITY OF NEWBURGH  
INDUSTRIAL DEVELOPMENT AGENCY  
Resolution No. 2021-07-14-05**

**COMMERCIAL/RETAIL FINDINGS RESOLUTION  
THE FOUNDRY PHASE 3, LP PROJECT**

A special meeting of City of Newburgh Industrial Development Agency (the “Agency”) was convened in public session at City Hall, 83 Broadway, Newburgh, New York on July 14, 2021 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:**

Austin DuBois	Chairperson
Nancy Thomas	Vice Chairperson
Marlon Ramos	Treasurer
Christina Amato	Secretary
Michael Kelly	Member
Adam Pollick	Member
Gregory Nato	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

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

The following resolution was offered by Marlon Ramos, seconded by Michael Kelly, to wit:

Resolution No. 2021-07-14-05

RESOLUTION (A) DETERMINING THAT THE PROPOSED THE  
FOUNDRY PHASE 3, LP PROJECT IS A COMMERCIAL PROJECT, AND  
(B) MAKING CERTAIN FINDINGS REQUIRED UNDER THE GENERAL  
MUNICIPAL LAW.

WHEREAS, 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" or the "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, The Foundry Phase 3, LP, a New York limited partnership (the "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 (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project"), said Project consisting of the following: (A) the acquisition of an interest in an approximately 76,841 square foot parcel of real property located at 43-45 Edward Street, Newburgh, NY (the "Land"), (2) the rehabilitation and improvement of the existing structures on the Land of improvements consisting of 59 residential units to be rented as multifamily apartments (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 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 15, 2021 (the "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 Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (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 February 25, 2021 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 Public Hearing

to be posted on February 25, 2021 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 Public Hearing to be published on March 2, 2021 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 Public Hearing on March 11, 2021 at 6:00 o'clock p.m., local time by video conference call duly noticed in accordance with the Governor's Executive Order 202.1 and 202.15, as amended and extended; and (E) will prepare a report of the Public Hearing (the "Public Hearing Report") fairly summarizing the views presented at such Public Hearing and shall cause copies of said Public Hearing Report to be made available to the members of the Agency; 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 (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), the Agency determined that no potentially significant impacts on the environment are known to the Agency; and

WHEREAS, in Opinion of the State Comptroller Number 85-51, the State Comptroller indicated that the determination whether a project that consists of the construction of an apartment house is a commercial activity within the meaning of the Act is to be made by local officials based upon all of the facts relevant to the proposed project, and that any such determination should take into account the stated purpose of the Act, that is, the promotion of employment opportunities and the prevention of economic deterioration; and

WHEREAS, the Project consists of vacant units of an abandoned phase of a condominium project that has been allowed to deteriorate for more than twenty-five (25) years; 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, including the attached Cost Benefit Analysis; (B) (i) a report of a consultant Beckman Appraisals; (ii) the transcript of the Public Hearing held on March 11, 2021 and the public comments in support expressed thereat; and (C) copies of correspondence from governmental officials supporting the commercial/economic impacts of the Project (the "Local Support");

WHEREAS, the Agency has given due consideration to the fact that the Project is located within a census tract in the City of Newburgh which is considered to be a distressed census tract, with a poverty rate of 25.4% (2020) with a public assistance rate greater than 40.00%, and therefore is in a "highly distressed area", as that term is defined in Section 854(18) of the Act; 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;

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

Section 1. Based upon an examination of the Project Qualification Documents and based further upon the Agency's knowledge of the area surrounding the Project and such further investigation of the Project and its economic effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations with respect to the Project:

A. The Project is located in an area having a mixture of residential, tourism, commercial, retail, and service uses.

B. The Master Plan for the City of Newburgh makes the following comments/findings regarding housing in the City of Newburgh:

- Encourage investment in urban land and buildings for employment and housing through development, redevelopment, rehabilitation and adaptive reuse
- Provide and maintain intergenerational life cycle housing options
- Encourage mixed income multi-family housing options throughout the City of Newburgh
- Promote quality residential housing
- Increase job opportunities for all residents by increasing the demand for commercial development
- Provide a nucleus of a healthy residential environment, and would be instrumental and vital in the further growth of the municipality

C. That undertaking the Project is consistent with the Master Plan and will assist and maintain current and future residential and commercial development and expansion in the neighborhood area.

D. The undertaking of the Project is within the boundary identified by the City's Local Waterfront Revitalization Program.

E. That the local support further demonstrates the positive commercial and economic development impacts of undertaking the Project and granting the Financial Assistance.

F. The Company has informed representatives of the Agency that the Project is expected to create approximately seventy-six (76) construction jobs and approximately eight (8) full time or part time private sector jobs.

G. The Company has informed representatives of the Agency that the Company is not aware of any adverse employment impact caused by the undertaking of the Project.

Section 2. Based upon the foregoing review of the Project Qualification Documents, including the local support, and based further upon the Agency's knowledge of the area surrounding the Project Facility and such further investigation of the Project and its economic effects as the Agency has deemed appropriate, the Agency makes the following determinations with respect to the Project:

A. That the Project is located in a "highly distressed area" (as defined in the Act).

B. That (1) the Project Facility will provide necessary infrastructure for area employers and businesses, (2) the completion of the Project Facility will have an impact upon the creation, retention and expansion of employment opportunities in the City of Newburgh and in the State of New York, and (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.

C. That 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.

D. That the Project constitutes a "commercial" project, within the meaning of the Act.

E. That 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.

Section 3. Having reviewed the Public Hearing Report, and having considered fully all comments contained therein, and based upon the findings contained in Section 1 above, the Agency hereby determines to proceed with the Project and the granting of the financial assistance described in the notice of the Public Hearing.

Section 4. 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:

Austin DuBois	VOTING	<u>Yes</u>
Nancy Thomas	VOTING	<u>Yes</u>
Marlon Ramos	VOTING	<u>Yes</u>
Christina Amato	VOTING	<u>Abstain</u>
Michael Kelly	VOTING	<u>Yes</u>
Adam Pollick	VOTING	<u>Yes</u>
Gregory Nato	VOTING	<u>Yes</u>

The foregoing Resolution was thereupon declared duly adopted.



STATE OF NEW YORK

) SS.:

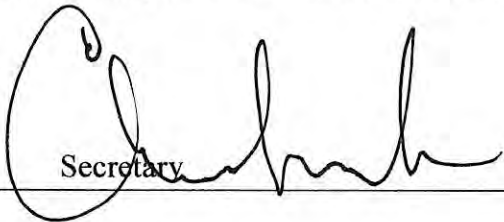
COUNTY OF ORANGE

I, the undersigned (Assistant) Secretary of 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 July 14, 2021 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 26 day of July 2021.

  
Secretary

(SEAL)

**CITY OF NEWBURGH  
INDUSTRIAL DEVELOPMENT AGENCY**

**Resolution No. 2021-07-14-06**

**APPROVING RESOLUTION  
THE FOUNDRY PHASE 3, LP PROJECT**

A special meeting of City of Newburgh Industrial Development Agency (the "Agency") was convened in public session at City Hall, 83 Broadway, Newburgh, New York in the 3<sup>rd</sup> Floor Meeting Room on July 14, 2021 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:**

Austin DuBois	Chairperson
Nancy Thomas	Vice Chairperson
Marlon Ramos	Treasurer
Christina Amato	Secretary
Michael Kelly	Member
Adam Pollick	Member
Gregory Nato	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

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

The following resolution was offered by Member Michael Kelly, seconded by Member Adam Pollick, to wit:

Resolution No. 2021-07-14-06

RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION WITH A LEASE/LEASEBACK TRANSACTION FOR A PROJECT AND PROJECT ASSIGNMENT FOR THE FOUNDRY PHASE 3, LP PROJECT (THE "COMPANY").

WHEREAS, 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" or the "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, The Foundry Phase 3, LP, a New York limited partnership (the "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 (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project"), said Project consisting of the following: (A) the acquisition of an interest in an approximately 76,841 square foot parcel of real property located at 43-45 Edward Street, Newburgh, NY (the "Land"), (2) the rehabilitation and improvement of the existing structures on the Land of improvements consisting of 59 residential units to be rented as multifamily apartments (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 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 15, 2021 (the "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 Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (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 February 25, 2021 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 Public Hearing to be posted on February 25, 2021 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 Public Hearing to be published on March 2, 2021 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 Public Hearing on March 11, 2021 at 6:00 o'clock p.m., local time by video conference call duly noticed in accordance with the Governor's Executive Order 202.1 and 202.15, as amended and extended; and (E) will prepare a report of the Public Hearing (the "Public Hearing Report") fairly summarizing the views presented at such Public Hearing and shall cause copies of said Public Hearing Report to be made available to the members of the Agency; 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 (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), the Agency the Agency determined that no potentially significant impacts on the environment are known to the Agency; and

WHEREAS, in Opinion of the State Comptroller Number 85-51, the State Comptroller indicated that the determination whether a project that consists of the construction of an apartment house is a commercial activity within the meaning of the Act is to be made by local officials based upon all of the facts relevant to the proposed project, and that any such determination should take into account the stated purpose of the Act, that is, the promotion of employment opportunities and the prevention of economic deterioration; and

WHEREAS, the Project consists of the Facility which is an abandoned phase of a condominium project that has been allowed to deteriorate and remain vacant and unused for more than twenty-five (25) years; 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, including the attached Cost Benefit Analysis; (B) a report of a consultant Beckmann Appraisals; the transcript of the Public Hearing held on March 11, 2021 and the public comments in support expressed thereat; and (D) copies of correspondence from governmental officials supporting the commercial/economic impacts of the Project (the "Local Support");

WHEREAS, the Agency has given due consideration to the fact that the Project is located within a census tract in the City of Newburgh which is considered to be a distressed census tract, with a poverty rate of 25.4% (2020) with a public assistance rate greater than 40.00%, and therefore is in a "highly distressed area", as that term is defined in Section 854(18) of the Act; 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, pursuant to Resolution No. 2021-07-14-05, the Agency has determined: (A) the Project is located in an area having a mixture of residential, tourism, commercial, retail, and

service uses; (B) the Master Plan for the City of Newburgh makes the following comments/findings regarding housing in the City of Newburgh: (i) encourage investment in urban land and buildings for employment and housing through development, redevelopment, rehabilitation and adaptive reuse, (ii) provide and maintain intergenerational life cycle housing options, (iii) encourage mixed income multi-family housing options throughout the City of Newburgh, (iv) promote quality residential housing, (v) increase job opportunities for all residents by increasing the demand for commercial development, (vi) provide a nucleus of a healthy residential environment, and would be instrumental and vital in the further growth of the municipality; (C) undertaking the Project is consistent with the Master Plan and will assist and maintain current and future residential and commercial development and expansion in the neighborhood area; (D) the Project is within the boundary identified in the City's Local Waterfront Revitalization Program; (E) the local support further demonstrates the positive commercial and economic development impacts of undertaking the Project and granting the Financial Assistance; (F) the Company has informed representatives of the Agency that the Project is expected to create approximately seventy-six (76) construction jobs and approximately one (1) full time or part time private sector jobs at the Project and up to 7 indirect full time or part time private sector jobs in the community as a result of the Project; (G) the Company has informed representatives of the Agency that the Company is not aware of any adverse employment impact caused by the undertaking of the Project; (H) the Project is located in a "highly distressed area" (as defined in the Act); (I) (i) the Project Facility will provide necessary infrastructure for area employers and businesses, (ii) the completion of the Project Facility will have an impact upon the creation, retention and expansion of employment opportunities in the City of Newburgh and in the State of New York, and (iii) 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; (J) 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; (K) the Project constitutes a "commercial" project, within the meaning of the Act; and (L) 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.

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 member or staff of the Agency with respect to the Public Hearing with respect to the Project and the Financial Assistance is hereby ratified and confirmed.

Section 2. All actions taken by the Chairperson and/or member or staff of the Agency with respect to the Deviation Notice with respect to the Project and the Pilot Request is hereby ratified and confirmed.

Section 3. 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 4. 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 \$21,019,627;

(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 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 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, and (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; (iii) 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; (iv) the Project constitutes a "commercial" project, within the meaning of the Act; and (v) 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.

(G) 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;

(H) 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;

(I) 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, and the written comments and opinions submitted to the Agency by members of the public and various public entities and public officials, and has fully considered all comments contained therein. 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.

(J) 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 (i) the Company's statement that the Project will not proceed without such Financial Assistance, and (ii) the Agency's Uniform Criteria for the Evaluation of Projects Policy and the Pilot Request contained in the Deviation Notice, the cost benefit analysis 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

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

Section 5. 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 6.** 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 7.** The Payment in Lieu of Tax Agreement shall contain the following schedule of payments:

<b><u>TAX YEAR</u></b>	<b><u>PILOT Payment</u></b>
1	\$6,969.00
2	7,143.00
3	17,389.00
4	17,824.00
5	18,269.00
6	29,568.00
7	30,307.00
8	53,845.00
9	55,191.00
10	104,439.00
11	107,050.00
12	160,018.00
13	164,018.00
14	220,956.00
15	280,638.00
<b><u>TOTAL</u></b>	<b><u>\$1,273,624.00</u></b>

**Section 8.** 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 9. (A) The Chairperson (or Vice Chairperson) 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 10. 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 11. This Resolution shall take effect immediately.

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

Austin DuBois	VOTING	YES
Nancy Thomas	VOTING	YES
Marlon Ramos	VOTING	YES
Christina Amato	VOTING	ABSTAIN
Michael Kelly	VOTING	YES
Adam Pollick	VOTING	YES
Gregory Nato	VOTING	YES

The foregoing Resolution was thereupon declared duly adopted.



## EXHIBIT A

### DESCRIPTION OF THE EXPECTED PUBLIC BENEFITS

In the discussions had between the Project Beneficiary (Foundry Phase II, LP), 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	one (1) full time or part time private sector jobs at the Project Facility and up to seven (7) indirect full time or part time private sector jobs in the community as a result of the Project Facility within 1 year of competition of the project.
3.	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 76 full time equivalent construction jobs at the Project Facility for local labor during an estimated construction period of 2 to 3 years, commencing within 12 months of the date of the Approving Resolution for the Project.
4.	Private sector investment	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$21,019,627 at the Project Facility within 4 years of the date of the Approving Resolution for the Project.
5.	Creation of new revenues for local taxing jurisdictions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$1,273,624.00 of new revenues for local taxing jurisdictions and special districts with respect to the Project Facility within 15 years of the date of completion of Project operations by the Project Beneficiary.

6.	Attract customers from outside the Economic Development Region	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Project is contiguous to a tourism destination.
7.	Adaptive reuse of an existing deteriorating structure.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Project rehabilitates an historic structure which has been vacant and deteriorating for decades.

## 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 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 18 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 36 months of the date of the Approving Resolution for the Project.
3.	Failure by the Project Beneficiary to document to the satisfaction of the Agency the creation of at least 80% of the average full time equivalent local labor construction jobs at the Project Facility listed on Exhibit A during the construction period described on <b>Exhibit A</b> .
4.	Failure by the Project Beneficiary to document to the satisfaction of the Agency the creation of at least 80% of the full time equivalent new jobs at the Project Facility listed on <b>Exhibit A</b> .
5.	Failure by the Project Beneficiary to document to the satisfaction of the Agency that at least 80% of the private sector investment described on <b>Exhibit A</b> occurred with respect to the Project Facility within 3 years of the date of the Approving Resolution for the Project.
6.	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 <b>Exhibit A</b> attached hereto were created within 15 years of the date of completion of the Project by the Project Beneficiary.
7.	Failure by the Project Beneficiary to document to the satisfaction of the Agency that the Project has substantially complied with the requirements of Agency SEQR Resolution.
8.	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.
9.	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.
10.	Failure by the Project Beneficiary to comply with the annual reporting requirements or to provide the Agency with requested information.
11.	Sublease or assignment of all or part of the Project Facility in violation of any Project Facility Agreement.
12.	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.

13.	The sale to bonafide third party purchaser(s) of any Facility unit(s) during the eighty-four (84) month period following completion of construction of the Project, in which case the PILOT shall terminate.
14	In the event of the sale to a bonafide third party purchaser(s) of any of the Facility unit(s) after the end of the eighty-four (84) month period following the completion of construction of the Project, the Payment in Lieu of Tax Agreement shall require a pro rata reduction in the PILOT Schedule of remaining payments, if any, set forth in the Approving Resolution
15.	Rental of all Facility unit(s) at an average annual rent which exceeds affordability for households earning 105% of the Orange County Area Median Income ("AMI"), as determined by the Department of Housing and Urban Development (via reference to the MFI for the Poughkeepsie-Newburgh-Middletown, New York HUD Metro FMR Area), for each applicable calendar year, in which case the PILOT shall terminate.. Affordability shall mean 30% of AMI.
16.	The sale to bonafide third party purchaser(s) (other than a single successor owner of such units who will be acting as a lessor) of more than forty-four (44) Facility unit(s) after the end of the eighty-four (84) month period following the completion of construction of the Project, in which case the Payment in Lieu of Tax Agreement shall require termination of the PILOT Schedule of any remaining.

# Short Environmental Assessment Form

## Part 1 - Project Information

### Instructions for Completing

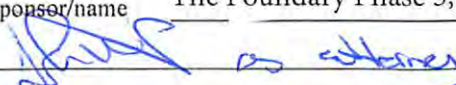
**Part 1 – Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 – Project and Sponsor Information</b>			
Foundary Project			
Name of Action or Project: Application for NIDA Assistance for Foundary Project			
Project Location (describe, and attach a location map): 43-45 Edward Street, City of Newburgh			
Brief Description of Proposed Action: Project Sponsor is seeking assistance from the City of Newburgh Industrial Development Agency in connection with its rehabilitation of an existing commercial multi-family building. Neither the square footage or footprint of the existing building is being expanded.			
Name of Applicant or Sponsor: The Foundry Phase 3, LP		Telephone: 917-656-9593	
Address: 44 Court Street, Suite 1217 PO Box 90817		E-Mail: andrew@atticlabs.info	
City/PO: Brooklyn		State: New York	Zip Code: 11201
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: - Building permits from the City Building Department. - Federal and State Historic Tax Credits			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		76,841 SF acres	
b. Total acreage to be physically disturbed?		N/A acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		0 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input checked="" type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			



	NO	YES	N/A
5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	YES
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	YES
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	YES
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	YES
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	YES
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	YES
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? - Building itself, located within East End Historic District and adjacent to Washington's Headquarters. b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	YES
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	YES
	<input type="checkbox"/>	<input type="checkbox"/>	YES

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
Atlantic Sturgeon, Shortnos...	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources?	NO	YES
If Yes,	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)?	NO	YES
If Yes, explain the purpose and size of the impoundment: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?	NO	YES
If Yes, describe: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) hazardous waste?	NO	YES
If Yes, describe: <u>7-11 Johnes Street - former dry cleaning buisness where petroleum was stored underground.</u> _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>  Applicant/sponsor/name <u>The Foundary Phase 3, LP</u> Date <u>February</u> , 2021 Signature: <u></u> Title: <u>Member</u>		



**Disclaimer:** The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	Yes
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	No
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 15 [Threatened or Endangered Animal - Name]	Atlantic Sturgeon, Shortnose Sturgeon
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	Yes

**CITY OF NEWBURGH  
INDUSTRIAL DEVELOPMENT AGENCY**

**Resolution No. 2021-07-14-07**

**RESOLUTION APPROVING REVISIONS  
TO PROCUREMENT POLICY**

A special meeting of the City of Newburgh Industrial Development Agency (the "Agency") was convened in public session in the City Hall located at 83 Broadway, Third Floor Council Chambers, in the City of Newburgh, Orange County, New York on July 14, 2021 at 6:00 o'clock p.m., local time.

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

PRESENT:

Austin DuBois	Chairperson
Nancy Thomas	Vice Chairperson
Marlon Ramos	Treasurer
Christina Amato	Secretary
Michael Kelly	Member
Adam Pollick	Member

ABSENT:

Gregory Nato	Member
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AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

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

The following resolution was offered by Nancy Thomas, seconded by Christina Amato, to wit:

Resolution No. 2021-07-14-07

**RESOLUTION APPROVING REVISIONS TO THE PROCUREMENT POLICY**

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 manufacturing, warehousing, research, commercial and industrial 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, under Section 858 of the Act, the Agency has the power to approve certain administrative matters; and

WHEREAS, the Agency reviews its policies and by-laws on an annual basis and from time to time; and

WHEREAS, the Agency has reviewed its Procurement Policy and has determined to consider changes as set forth below:

Increasing the thresholds to meet the statutory thresholds:

- ✓ Increase the current dollar amount of \$20,000 for public works contracts to \$35,000; and
- ✓ Increase the current dollar amount of \$10,000 for purchase contracts to \$20,000.

These changes are also to be reflected in Section B, numbers 5 and 6 respectively, of the Procurement Policy.

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

Section 1. The Agency hereby approves the revisions to the Procurement Policy as described above;

Section 2. The Agency hereby authorizes the Chairperson and Agency Counsel to take all steps necessary to implement the matters described above;

Section 3. This Resolution shall take effect immediately.

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

Austin DuBois	VOTING	Yea
Nancy Thomas	VOTING	Yea
Marlon Ramos	VOTING	Yea
Christina Amato	VOTING	Yea
Michael Kelly	VOTING	Yea
Adam Pollick	VOTING	Yea
Gregory Nato	VOTING	<u>Absent</u>

The foregoing resolution was thereupon declared duly adopted.

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

I, the undersigned Authorized Officer of City of Newburgh Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency held on July 14, 2021 with the original thereof on file in my office, and that the same is a true and correct copy of said original 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 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.

26 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this day of July, 2021.

  
\_\_\_\_\_  
Authorized Officer

(SEAL)



# CITY OF NEWBURGH

## INDUSTRIAL DEVELOPMENT AGENCY

### Procurement Policy

#### A. Preamble

1. Scope – In accordance with Section 2824 of the Public Authorities Law and Sections 858-a and 104-b of the General Municipal Law (the “GML”), the City of Newburgh Industrial Development Agency (the “agency”) is required to adopt procurement policies which will apply to the procurement of goods and services paid for by the agency for its own use and account. Purchases made for the benefit of a third party and for which payment is to be made from funds provided by such third party (or by another third party) shall not be subject to the requirements of this Procurement Policy.

While the agency is not obligated pursuant to the GML to require competitive bidding on its contracts, the agency finds that its policy is advanced by requiring public bidding under certain circumstances.

2. Purpose – Pursuant to Section 104-b of the GML, the primary objectives of this policy are to assure the prudent and economical use of public monies in the best interests of the taxpayers of the City of Newburgh (the “city”), to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances and to guard against favoritism, improvidence, extravagance, fraud, and corruption.

#### B. Procurement Policy

1. Determination required — Prior to commencing any procurement of goods and services, the Chairman, or the Executive Director or an authorized designee, shall prepare a written statement setting forth the basis for (1) any determination made that competitive bidding is not required for such procurement, and if applicable (2) any determination made that such procurement is not subject to any requirements set forth in this policy. Such written statements shall be maintained by the Executive Director or an authorized designee in a specially designated procurement file.

2. Procedure for determining whether procurements are subject to competitive bidding – the procedure for determining whether a procurement of goods and services is subject to competitive bidding shall be as follows:

a. The Chairman or the Executive Director or an authorized designee shall make the initial determination as to whether competitive bidding is required. This determination will be based on Section 103 of the GML, which requires competitive bidding for expenditures by a political subdivision of (1) more than \$35,000 for the performance of any public works contract



(services, labor or construction), and (2) more than \$20,000 for any purchase contract (acquisition of commodities, materials, supplies or equipment).

b. The Chairman or the Executive Director or such authorized designee shall review the purchase request against prior years' expenditures and a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate purchases of a similar nature will exceed the above. If so, competitive bidding procedures shall be followed for said expenditure.

c. The Chairman or the Executive Director or such authorized designee shall present any legal issues regarding the applicability of the competitive bidding requirements stated herein to the Agency's Counsel.

3. Procedures to be used where competitive bidding is required — Where the Chairman or the Executive Director or such authorized designee shall have determined that competitive bidding is required pursuant to paragraph 2 above, then the procedures set forth in Section 103 of the GML shall be followed in respect of such procurement.

4. Methods of competition to be used for non-bid procurements and procurements exempt by statute — Alternative proposals or quotations for goods and services shall be secured by use of written requests for proposals or written quotations, verbal quotations, or any other method of procurement which furthers the purposes of this section except for items excepted herein (see 7 below) or procurements made pursuant to:

- a. GML, Section 103 (3) (through city contracts), or
- b. GML, Section 104 (through state contracts), or
- c. State Finance Law, Section 175-b (from agencies for the blind or severely handicapped), or
- d. Correction Law, Section 186 (articles manufactured in correctional institutions).

5. Procedures for the Purchase of Commodities, Equipment or Goods under \$10,000.

- a. Up to \$500 The discretion of the Chairman or the Executive Director or authorized designee.
- b. \$501 - \$3,000 Documented verbal quotations from at least three vendors.
- c. \$3,001 - \$10,000 Written/fax quotations from at least three vendors.

6. Procedures for the purchase of public works or services under \$20,000.

- a. Up to \$1000 The discretion of the Chairman or the Executive Director or authorized designee.
- b. \$1,001 - \$5,000 Documented verbal quotations from at least three vendors.
- c. \$5,001 - \$20,000 Written/fax quotations from at least three vendors.

7. Basis for the awarding of contracts – Contracts will be awarded to the lowest responsible vendor who meets the specifications.

8. Circumstances justifying an award to other than the lowest-cost quoted.

a. Delivery requirements

b. Quality requirements

c. Past vendor performance

d. The unavailability of three or more vendors who are able to quote on a procurement.

e. It may be in the best interests of the Agency to consider only one vendor who has previous expertise with respect to a particular procurement.

9. Documentation

a. For each purchase made the Chairman or the Executive Director or authorized designee shall set forth in writing the category of procurement that is being made and what method of procurement is specified.

b. The basis for any determination that competitive bidding is not required shall be documented, in writing, by the Chairman or the Executive Director or such authorized designee, and filed with the purchase order or contract therefore.

c. For those items not subject to competitive bidding such as professional services, emergencies, purchases under city contracts, or procurements from sole sources, documentation should include a memo to the files which details why the procurement is not subject to competitive bidding and include, as applicable:

(1) a description of the facts giving rise to the emergency and that they meet the statutory criteria;

(2) a description of the professional services;

(3) written verification of city contracts;

(4) opinions of Counsel, if any

(5) a description of sole source items and how such determinations were made.

d. Whenever an award is made to other than the lowest quote the reasons for doing so shall be set forth in writing and maintained in the procurement file.

e. Whenever the specified number of quotations cannot or will not be secured, the reasons for this shall be indicated in writing and maintained in the procurement file.

10. Exceptions to bidding and alternative methods of competition

a. Emergency Situation — An emergency exists if the delay caused by soliciting quotes would endanger the health, welfare, or property of the municipality or of its citizens. With

approval by the Chairman or the Executive Director, such emergency shall not be subject to competitive bidding or the alternative procedures stated above.

b. Resolution waiving bidding requirements — The agency may adopt a resolution waiving the competitive bidding requirements whenever it is determined to be impracticable.

c. Sole source — Defined as a situation when there is only one possible source from which to procure goods and/or services and it is shown that the item needed has unique benefits, the cost is reasonable for the product offered, and there is no competition available. In this situation, a request for a resolution waiving bidding requirements, as described above, is required.

d. True Lease — Prices will be obtained through quotations whenever possible. The award shall be made on the basis of goods and/or services to be provided, ability to meet the specifications desired and price.

e. Insurance — All insurance policies shall be procured in accordance with the following procedures:

- (1) Premium less than \$10,000 — documented telephone quotations from at least three agents (if available).
- (2) Premium over \$10,001 — written quotations/fax or proposals from at least three agents (if available).

f. Professional and creative services — This category includes services which require special education and/or training, license to practice, or are creative in nature. It is the intent of the agency that this category be co-extensive with the category of services which are exempt from the requirements of competitive bidding under Section 103 of the GML. Examples of professional and creative services are: (i) legal counseling and representation (including general and bond counsel); (ii) medical services; (iii) engineering and architectural services; (iv) lobbying, legislative and intergovernmental relations advice and representation; (v) public relations services; (vi) marketing and promotional services (including real estate brokerage). Professional services agreements are not required to be awarded to the lowest responsible bidder, but rather the agency may base its determination upon a review of such information as the agency shall deem appropriate. All contracts for professional services shall be awarded by resolution of the agency based upon a consideration of cost, experience, expertise, reputation, location, and suitability for the needs of the agency, in accordance with the following procedures:

(1) For any procurement specified in this subsection f, the Chairman or the Executive Director shall solicit quotations, statements or other information regarding their experience, qualifications, and capability to perform the proposed services from no fewer than three firms or persons customarily performing such services. If the procurement is expected to cost \$20,000 or more, such quotations, statements or information shall be in writing; and if more

than \$75,000, a request for qualifications or a request for proposals shall be issued and qualification statements or proposals shall be received. The Chairman or the Executive Director shall recommend in writing to the members of the agency approval of a contract with the person or firm whose quotation or proposal is determined by such procuring officer to be the most advantageous to the agency.

(2) If oral quotations or statements are obtained, the procuring officer shall record the names and addresses of all persons and firms from whom quotations or statements were sought, the names of the individuals and firms submitting quotations or statements, and the date and a summary of each quotation or statement.

g. Marketing — Contracts for marketing, promotional advertising and sponsorship of charitable and civic events shall not be subject to the requirements of competitive bidding or the alternative methods of competition set forth above, provided that the agency shall determine by resolution that such contract is in furtherance of the purposes of the agency.

11. Minority and women business enterprises — The agency shall comply with all applicable legal requirements relating to the hiring of such businesses.

#### C. Alternate Procurement by City

1. Notwithstanding the procedures set forth in Section B above, any purchase by the agency of city public works or services, or of commodities, equipment or goods, for the use or benefit of the agency, pursuant to a written agreement between the city and the agency for the provision of goods and services by the city to the agency, shall be deemed to be in compliance with the Procurement Policy of the agency, provided that such purchase is made by the city in compliance with law and with the Procurement Policy of the city as if such purchase were made for the city's own benefit or account.

2. The agency hereby adopts and incorporates by reference the Procurement Policy of the city as may be amended from time to time as applicable to any purchase by the city of public works or services, or of commodities, equipment or goods, for the use or benefit of the agency, pursuant to a written agreement between the city and the agency for the provision of goods and services by the city to the agency.

#### D. General Provisions

1. Input from members of the agency — Comments concerning the procurement policy shall be solicited from the members of the agency from time to time.

2. Annual Review — the agency shall annually review its procurement policies and procedures.

3. Unintentional Failure to Comply — The unintentional failure to comply with the provisions of Section 104-b of the GML shall not be grounds to void action taken or give rise to a cause of action against the agency or any officer thereof.