

83 Broadway, Newburgh, NY 12550 (845) 569-7369 idadirector@cityofnewburgh-ny.gov

BOARD MEETING

6:30 p.m., Monday, March 17, 2025 Newburgh Recreation Center 401 Washington Street, Newburgh, NY

AGENDA

- 1. Roll Call
- 2. Proof of Notice of Meeting
- 3. Public Hearing Scobie Industrial Partners, LLC –
- 4. Public Hearing Shaw Building, L.P. -
- 5. Reading and approval of minutes of the previous meeting
- 6. Report of the Treasurer
 Approval of Treasurer's Report for February 2025
 Approval of payment of bills for February 2025
 Audit 2024
- 7. Chairman's Report
- 8. Counsel's Report
- 9. Executive Director's Report
- 10. New Business

Resolution # 2025-03-17-01, Audit and Investment Report for 2024

Resolution # 2026-03-17-02 Approval of Amendment to a Certain Lease Agreement (Cell Tower)

- 11. Old Business
- 12. Adjournment

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY TREASURER'S REPORT MARCH 17, 2025 MEETING FEBRUARY

OPERATING Account #2847

Opening Balance As of February 1, 2025 \$447,675.99

from bank statement

<u>Deposits</u>	<u>Payor</u>	<u>Amount</u> <u>Remarks</u>
	2/3/2025 AT&T	3,996.71
	2/4/2025 T-Mobile	5,416.49
	2/4/2025 Central Hudson	2,285.51
	2/27/2025 Dish Network	1,500.00
	2/28/2025 Mid Hudson Times	0.01 Account Verification
	2/28/2025 Mid Hudson Times	0.01 Account Verification
	2/28/2025 Interest Paid	451.85 Interest Rate 3.30%

TOTAL DEPOSITS 2847 \$13,650.58

Disbursements

	<u>Payee</u>	<u>Amount</u> <u>Remarks</u>
WIRE	2/7/2025 Melvin & Melvin PLLC	350,000 Armory Settlement Payment
ACH	2/10/2025 Chubb	965.17 Property Insurance renewal
Check #1321	2/10/2025 ODP Business Solutions	260.05 Invoice 407724301001 & 407712139001
Check #1322	2/10/2025 black dog DESIGNS, LLC	319.99 Invoice 1999
Check #1323	2/10/2025 Veritex, LLC	1,783.60 Invoice 8069303, 8069308
ACH	2/11/2025 NYSIF	512.65 Workers Comp Insurance renewal
Check #1324	2/13/2025 MRB Group	14,077.98 Invoice 64223, 64221, 65732, 65733
Check #1325	2/24/2025 MRB Group	4,059.94 Invoice 65866, 65867, 65868
Check #1326	2/24/2025 J&G Law	175.00 Invoice 321910
Check #1327	2/24/2025 Phanatiks Entertainmen	1,000.00 Invoice 02192025
Check #1328	2/24/2025 William Smith & Son, Inc.	100.00 Invoice 6044
Check #1329	2/24/2025 Cherisse Vickers	44.76 Reimburse expenses
ACH	2/28/2025 Mid Hudson Times	0.01 Account Verification
ACH	2/28/2025 Mid Hudson Times	0.01 Account Verification

TOTAL CHECKS & DISBURSEMENTS 2847 \$	373,299.16
IOTAL CHECKS & DISBURSEIVIENTS 2047	13/3,233.1

Closing Balance As of February 28, 2025 \$88,027.41 Op Acct #2847

PAYROLL Acct #8243

Opening Balance As of February 1, 2025 \$151,017.42

2/5/2025 Payroll Fees January 25 Debit 56.23 2/5/2025 Net Pay (part of gross wages) Debit 3,271.41 12/23/24-01/05/25 Debit 2/5/2025 Employer Payroll Tax + Employee WH (part of gross wages) 1,368.98 12/23/24-01/05/25 Debit 2/19/2025 Net Pay (part of gross wages) 3,271.41 01/06/25-01/19/25 Debit 2/19/2025 Employer Payroll Tax + Employee WH (part of gross wages) 1,349.04 01/06/25-01/19/25 **Total Monthly Payroll Expense** 9,317.07

Credit 2/28/2025 Interest Paid 362.36 Interest Rate 3.30%

Closing Balance As of February 28, 2025 \$142,062.71 Payroll Acct #8243

APPLICATIONS FUND Account #2855

Opening Balance As of February 1, 2025 \$14,151.44

Closing Balance As of February 28, 2025 \$14,151.44 App Fund Acct #2855

LESSOR/TENANT Account #2863

\$2,523.74 **Opening Balance** As of February 1, 2025

2/28/2025 Interest Paid \$6.59 Interest Rate 3.30% Interest Income

Closing Balance As of February 28, 2025 \$2,530.33 Lessor Acct #2863

LABOR MONITORING Account #7072

Opening Balance As of February 1, 2025 \$15,014.79

Closing Balance As of February 28, 2025 \$15,014.79 Labor Monitor Acct #7072 **MONEY MARKET Account #2871**

Opening Balance As of February 1, 2025 **\$1,287,653.30**

Interest Income 2/28/2025 Interest Paid 3,210.31 Interest Rate 3.30%

Closing Balance As of Feburary 28, 2025 **\$1,290,863.61 MM Acct #2871**

NEWBURGH SOUTH LOGISTICS CENTER Account #6521

Opening Balance As of February 1, 2025 \$54.50

Interest Income 2/28/2025 Interest Paid 0.14 Interest Rate 3.40%

Closing Balance As of February 28, 2025 \$54.64 NSLC Acct #6521

PROVIDENT BANK Account #4346

Opening Balance As of February 1, 2025 \$0.00

Closing Balance As of February 28, 2025 \$0.00 PROVIDENT BANK Account #4346

PROVIDENT BANK Account #5683

Opening Balance As of February 1, 2025 \$4,311,607.60

Closing Balance As of February 28, 2025 \$4,311,607.60 PROVIDENT BANK Account #5683



The Board of Directors of the Newburgh IDA met on Wednesday, February 26 at 6:36 pm at 401 Washington Street, Newburgh, NY 12550.

Present:

Board Members: Michael Neppl, Chair

Gregory Nato, Secretary Vickiana DeMora, Treasurer Alexandra Church, Vice Chair Christina Amato, Member

Sharonda Powell, Member - Absent

Staff: Cherisse Vickers, Executive Director

Adriana Huaynalaya, Financial Administrator

Counsel: Robert J. McLaughlin, Esq., Whiteman Osterman & Hanna LLP

Guests: Philippe Pierre, 104 Washington Street LLC.

Andrew Schrijver, Liberty Street Apartments LLC.

Sisha Ortuzar, 191 Washington Street LLC. Erick Cooney, 191 Washington Street LLC.

- 1. **Roll Call:** Michael Neppl, Chairman called the meeting to order at 6:36 pm. A quorum was declared to be met.
- 2. **Proof of Meeting Notice:** Michael Neppl, Chairman observed that the Notice of the meeting was properly sent and accepted.
- 3. <u>Public Hearing Scobie Industrial Partners, LLC:</u>

Postponed.

4. **Public Hearing Shaw Building, L.P:**

February 26, 2025, Board Meeting Minutes

Postponed.

5. **Reading and Approval of January 22, 2025 Meeting Minutes:**

Meeting Minutes from the board meeting of January 22, 2025, were distributed to the board via e-mail.

Motion to approve January 22, 2025 meeting minutes as presented:

Ms. Church: Motion to approve the minutes

Mr. Nato: Motion seconded Ms. DeMora: Abstain

VOTE: Unanimously passed with one abstention

6. Report of the Treasurer; Approval of Payment of Bills:

Vickiana DeMora presented the January Treasurer's Report to the board.

Motion to approve January 2025 Treasurer's Report

Ms. Church: Motion to approve Mr. Nato: Motion seconded **VOTE: Unanimously passed**

Motion to approve January 2025 Bill Payments

Ms. DeMora: Motion to approve (Checks 1310, 1311, 1312, 1313, 1314, 1316, 1317, 1318,

1319, 1320)

Ms. Church: Motion seconded **VOTE: Unanimously passed**

7. Chairman's Report:

Mr. Neppl mentioned to the board this meeting would be first time we are live streaming the board meeting. The chair is hopeful that more members of the public will attend. The two public hearings that were scheduled for tonight will be moved to March.

8. **Counsel's Report:**

Mr. McLaughlin shared with the board that there is no movement on the cell tower and is hopeful that next month there will be draft to the lease. Mr. McLaughlin will create adjournment hearing notices for the two public hearings that were postponed. There is no update with Brookfield and is hopeful the project can close at the end of the quarter.

Mr. McLaughlin will not be at next month's meeting and David Craft will come in his place.

9. **Executive Director's Report:**

Ms. Vickers mentioned the audit was completed and is expecting to receive the audit draft by Monday. A meeting can be scheduled with the Audit/Finance committee to review and present at the March meeting. Ms. Vickers has also been in contact with MRB for the UTEP revision, the consultant suggested a four-hour retreat. Ms. Vickers will share dates and times at which most of the board members can attend.

10. New Business:

Resolution # 2025-02-26-01 Award of Structural Engineer RFP

In accordance with the Labor Policy, the Agency solicited responses from qualified firms pursuant to a Request for Proposals for Professional Engineering Services ("RFP"), dated December 18, 2024, to provide professional engineering services and generate an engineering report for the Agency's property located at 145 Broadway, Tax Map No. 36.-3-1.2, City of Newburgh, Orange County, New York (the "Property"), which is used for office purposes

Ms. Vickers pointed out to the board the spreadsheet with the RFP responses. For the benefit of those in attendance, Ms. Vickers shared the background of the resolution. Ms. Amato asked if a member of the Agency walked around with the engineers. Ms. Vickers responded no, the pictures Ms. Vickers received were shared with the applicants. Mr. Neppl asked based on the pictures the Agency received if there is reason to believe the alleged structural problems requiring investigation would require particularized knowledge other than a structural engineer. Ms. Amato responded not to her knowledge. Ms. Amato highlighted this RFP is for an assessment and not to make any repairs. Ms. Vickers confirmed this is just to address the concerns. RFP will be awarded to Barton and Loguidice as the lowest bidder.

Ms. Church: Motion to approve Ms. DeMora: Motion seconded

A roll call was taken for the vote.

Mr. Neppl: Yes Ms. Church: Yes Ms. DeMora: Yes Mr. Nato: Yes Ms. Amato: Yes Ms. Powell: Absent

VOTE: Unanimously passed

11. Old Business:

Following the public comment from the public hearings held at last month's meeting, Mr. Neppl gave the board an opportunity to pose any additional questions. Ms. Church gave her general comment and after Ms. Amato gave her general comment.

Review of public hearing for 104 Washington Street, LLC

Ms. Church shared her general comment acknowledging that prior approvals for the projects had been granted and that reversing them could cause significant delays and financial strain. Ms. Church also encouraged the board to update the Agency's UTEP, ensuring a clearer framework for future applications and suggested automatic rejection of projects seeking tax relief under New York State Private Housing Finance Law (Sections 572 and 577) and sent to the City for review.

Ms. Amato shared her general comment recognizing the importance of these developments and expressing concerns that granting tax exemptions would shift the financial burden to existing taxpayers and agreed to Ms. Church's suggestion of a temporary moratorium on new tax relief applications deviating from current policy, allowing time to update the Uniform Tax Exemption Policy (UTEP). Ms. Amato also highlighted that the Agency should focus on commercial development rather than housing.

Mr. Neppl stated that stating that increasing downtown residential density would benefit local businesses and attract more economic activity and while the Agency is a separate entity, it should generally align with the City Council's economic development objectives to maintain consistency in policy decisions.

Mr. McLaughlin stressed the Agency should follow the direction of the appointing authority. Mr. Nato stated he has never heard of any plan from the City Council and how the Agency got to the point where the Agency's UTEP is now. Mr. Neppl responded that this was a question for the previous members of the board and newly appointed members are seeking now to update the Agency's UTEP.

Ms. Church asked Mr. Pierre how he determined the term of the amended PILOT. Mr. Pierre responded it was commensurate with the level of and type of funding that the project is receiving from other agencies which stipulate 30- year affordability for those funds. Ms. Church asked if Mr. Pierre had considered splitting the commercial and residential portion of the project. Mr. Pierre mentioned it was not the path he was advised to choose and is not partial to whom grants the PILOT.

Ms. Amato asked Mr. Pierre how much he will be receiving from the Momentum Grant. Mr. Pierre said he was awarded \$3,500,000. Ms. Amato asked how much of the grants

are part of Mr. Pierre's equity, Mr. Pierre mentioned all other funding is structured as debt. Ms. Amato asked Mr. Pierre's exit strategy, he responded it is to hold for the long term. Regarding the development fee, Ms. Amato asked if it is achieved through the construction loan or if it comes over a period of time. Mr. Pierre responded that some of the fees are earned up front, and the rest is paid out through operational cash flow. Mr. Church asked counsel if it is possible for the draft PILOT to include language that ensures the affordability for the entire term of the PILOT. Mr. McLaughlin responded it can be considered and other counties that have done so have difficulty maintaining a developer to manage the project for the entire PILOT.

Review of public hearing for Liberty Street Apartments, LLC

Ms. Church shared her general comment regarding the confusion surrounding the project at 1 Lafayette St and clarified that parcel 40-4-1 (1 Lafayette St.) is owned by the Palisades Interstate Park Commission and is not eligible for tax relief, remaining fully tax-exempt. Ms. Church expressed frustration with the ongoing confusion caused by Liberty Street Apartments (the project under review) and stressed the need for clarity.

Mr. Neppl asked Mr. Schrijver to highlight some key points about the project. Mr. Schrijver shared with the board the process involved a year-and-a-half negotiations to reach an agreement with the parcel owner. Mr. Schrijver worked with three city boards, the ARC, and SHPO (for historic site approval). Mr. Schrijver is focused on improving the streetscape to benefit the surrounding area, ensuring pedestrian pathways, and creating a project that supports both housing and retail. The project consists of 145 units, with 128 affordable units (30% to 80% AMI) and 18 market-rate units. The project also includes 11,000 square feet of retail space. The site, a former factory complex that burned down in 1981, has been vacant since then and was previously seen as a critical economic development project for the City. The vacant parcel generates approximately \$9,321 in taxes annually, and the project is expected to bring over \$8 million in tax revenue over its 30-year lifespan.

Ms. Amato shared concerns about the project's timing and the requested PILOT terms and questioned the project's tax credits, the length of the PILOT request, and whether the commercial and residential components had been considered separately for different approvals. Mr. Schrijver explained that the project follows the 4% tax credit deal, with state-provided tax credits and that the PILOT request aligns with the requirement to secure financing, which was structured to ensure the project's feasibility. Mr. Schrijver also clarified that the tax credit deal would span 15 years, but lenders require certainty about tax liability for a 30-year term, hence the extended PILOT request.

Ms. Amato asked Mr. Schrijver about the developer fee, which is \$7.3 million. Mr. Schriver explained the breakdown of the fee, which is in line with industry standards and necessary due to the additional costs of building affordable housing. Ms. Amato

questioned the development fee and the impact on taxpayers, expressing concerns about City residents subsidizing housing while struggling with their own housing costs and the fairness of the project's financial structure, considering the size of the developer fee and the substantial tax breaks. Mr. Schriver explained that the additional construction costs for affordable housing make it financially unfeasible to build market-rate units in the same area and emphasized the project's goal to provide affordable housing in a location with no existing market-rate projects. Ms. Amato also expressed concern about the \$7.3 million developer fee and the loss of tax revenue for the City, suggesting that the funds could be better utilized for direct support to City residents.

Mr. Neppl highlighted that the affordable housing component is crucial for the City and that the investment will ultimately help revitalize downtown Newburgh. Ms. Amato raised questions about the project's public hearing and the clarity of the deadline for submitting written comments. Mr. McLaughlin clarified that the public hearing remains open until the board reaches a resolution. Counsel acknowledged some confusion about a deadline that was circulated and reassured that the public comment period is still active.

Review of Resolution No. 2023-06-12-7 (191 Washington Street LLC Project)

Mr. McLaughlin shared with the board this project was approved for financial assistance in 2023. The assistance was \$6.1 million which includes \$652,000 in sales tax exemption, \$5.2 million in a PILOT and \$250,000 in mortgage recording tax. There was a deviation from the UTEP and the PILOT was approved for 15 years. The financing was contingent on the approving resolution, which required commencement of the project within 24 months of the approving resolution, which means the project must commence by June of this year. Attorneys for the developer contacted counsel about two weeks ago and confirmed they are ready to proceed. It is counsel's recommendation to advise the board that the developer seeks to close the matter in the coming weeks.

Mr. Neppl shared with those in attendance this project is a mixed use/adaptive reuse project from a long abandoned former school building. Mr. Ortuzar confirmed as stated the project involves the renovation of an existing school building and the construction of two new buildings on the adjacent lot that will include 70 residential units and 14,000 square feet of commercial space, half of which will a brewery and the rest will be used for retail. The project, initially planned to be market-rate, will now be 100% affordable housing. Mr. Neppl asked counsel if there was an official action the board need to take at this time. Mr. McLaughlin informed the board that no official action is required at this time. The project was placed on the agenda for informational purposes with the goal to ensure the board, including new members, of the project and its developments. There is no objection from the board regarding proceeding with the project, and the developer will work with counsel to close the matter as soon as possible.

12. **Adjournment**

A motion to adjourn was made by Ms. Church and seconded by Ms. DeMora. Unanimously passed at 8:24 pm.



CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

Resolution No. 2025-03-17-01

RESOLUTION CONFIRMING 2024 CERTIFIED ANNUAL AUDIT AND 2024 INVESTMENT REPORT

A regular meeting of City of Newburgh Industrial Development Agency (the "Agency") was convened in public session at 401 Washington Street, Newburgh, New York on March 17, 2025, at 6:30 o'clock p.m., local time.

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

PRESENT:

Michael Neppl	Chair
Alexandra Church	Vice Chair
Vickiana DeMora	Treasurer
Gregory Nato	Secretary
Christina Amato	Member
Sharonda Powell	Member

ABSENT:

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Cherisse Vickers Executive Director
Adriana Huaynalaya Financial Administrator
David Craft, Esq. Agency Counsel

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

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" 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, under Section 858 of the Act, the Agency has the power to approve certain administrative matters; and

WHEREAS, the Agency has received the Independent Report of the Agency Auditor for the year ending December 31, 2024, the 2024 Investment Report, and associated statements and reports (collectively, the "2024 Certified Annual Audit of the Agency"); and

WHEREAS, the members of the Agency have reviewed and considered the findings of the 2024 Certified Annual Audit of the Agency.

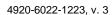
NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

- Section 1. The Agency hereby approves and confirms the 2024 Certified Annual Audit of the Agency and the 2024 Investment Report; and
- Section 2. The Agency hereby authorizes the Chair and the Executive Director to certify the submission of the 2024 Annual PARIS Report to the New York Authorities and Budget Office and the New York Office of the State Comptroller.
 - 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:

Michael Neppl	VOTING
Alexandra Church	VOTING
Vickiana DeMora	VOTING
Gregory Nato	VOTING
Christina Amato	VOTING
Sharonda Powell	VOTING
Gregory Nato Christina Amato	VOTING VOTING

The foregoing resolution was thereupon declared duly adopted.



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

I, the undersigned Secretary 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 March 17, 2025 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.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this day of March, 2025.

Secretary

(SEAL)



2024 Investment Report

Requirements

Section 2925.6 of the New York State Public Authorities Law requires public authorities to "annually prepare and approve an investment report which shall include the investment guidelines..., amendments to such guidelines since the last investment report, an explanation of the investment guidelines and amendments, the results of the annual independent audit, the investment income record of the corporation and a list of the total fees, commissions or other charges paid to each investment banker, broker, agent, dealer and advisor rendering investment associated services to the corporation since the last investment report."

Investment Guidelines

The primary objectives of the Agency's investment activities are to conform to all applicable federal, state, and other legal requirements; to adequately safeguard principal; to provide sufficient liquidity to meet all operating requirements; and to obtain a reasonable rate of return. The current investment policy is reviewed and adopted annually.

Investment Activity

The Agency's deposits are fully insured or collateralized and consisted of the following as of December 31, 2024:

Interest Income for the year 2024 was \$276,163.

Fees: No investment-related fees were incurred during the fiscal year of 2024.

Independent Audit

Please see IDA's website for a copy of the most recent independent auditors' report.

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

Resolution No. 2025-03-17-02

RESOLUTION AMENDING CERTAIN PROVISIONS OF RESOLUTION NO. 2024-09-10-02 AND AUTHORIZING THE AGENCY TO ENTER INTO A RENEWAL OF A LEASE AGREEMENT

A regular meeting of City of Newburgh Industrial Development Agency (the "Agency") was convened in public session at 401 Washington Street, Newburgh, New York on March 17, 2025, at 6:30 o'clock p.m., local time.

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

PRESENT:

to wit:

Michael Neppl Alexandra Church Vickiana DeMora Gregory Nato Christina Amato Sharonda Powell	Chair Vice Chair Treasurer Secretary Member Member		
1 7 6 7 1 7			
ABSENT:			
AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:			
Cherisse Vickers	Executive Director		
Adriana Huaynalaya	Financial Administrator		
David Craft Esq.	Agency Counsel		

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" 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

The following resolution was offered by ______, seconded by _____,

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, under Section 858(9) of the Act, the Agency is authorized and empowered to make contracts and leases, and to execute all instruments necessary or convenient to or with any person, firm, partnership or corporation, either public or private; and

WHEREAS, the Agency, as tenant, entered into a lease agreement dated December 31, 1997 (the "City Lease") with the City of Newburgh, as landlord and owner of that certain real property in the City of Newburgh, Orange County, State of New York, shown on the City of Newburgh Tax Maps as Section 50, Block 1, Lot 5, also being Lot No. 1 as shown on a map entitled "City of Newburgh Industrial Development Agency Final Plan Minor Subdivision", said map having been filed in the Orange County Clerk's Office on September 27, 1996 as Map No. 201-96 (the "Property"); and

WHEREAS, the Agency entered into a sublease, as amended, for the Property with Orange County-Poughkeepsie MSA Limited Partnership, a Delaware limited partnership ("ORP"), as subtenant, on or about February 1999 (the "Sublease"); and

WHEREAS, ORP, as the subtenant, constructed, or caused the construction of, a cell tower for use by the City and others; and

WHEREAS, pursuant to that certain assignment and assumption agreement dated December 6, 1999, by and between ORP and Crown Atlantic Company LLC, a Delaware limited liability company ("Crown Castle"), ORP assigned to Crown Castle all of its right, title and interest in and to the Sublease and the Property.

WHEREAS, the term of the Sublease expired on September 9, 2024 (the "Sublease Termination Date"); and

WHEREAS, the members of the Agency have determined that is it in the best interest of the Agency to extend the term of the Sublease Agreement; and

WHEREAS, by Resolution No. 2024-09-10-02 (the "Authorizing Resolution"), the Agency authorized the extension of the Sublease upon certain terms and conditions; and

WHEREAS, after negotiation between the parties to the Sublease, the Agency now desires to amend the terms and conditions upon which it will extend the Sublease as set forth in this Resolution and approve the Third Amendment to the Lease as presented to the Members at this meeting.

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

<u>Section 1</u>. The Agency hereby approves the extension of the Sublease Agreement (the "Sublease Extension") pursuant to the terms and conditions set forth in that certain Third Amendment to Lease attached hereto as **Exhibit A** (the "Third Lease Amendment"):

- Section 2. The Chair or the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the extension of the Third Lease Amendment.
- Section 3. The Chair and the Executive Director of the Agency are each hereby authorized to take all reasonable actions necessary to implement the provisions hereof.
 - <u>Section 4</u>. This Resolution shall take effect immediately.

The question of the adoption which resulted as follows:	of the foregoing resolution	on was duly put to vote on roll call,
Michael Neppl	VOTING	
Alexandra Church	VOTING	<u> </u>
Vickiana DeMora	VOTING	
Gregory Nato	VOTING	<u> </u>
Christina Amato	VOTING	
Sharonda Powell	VOTING	

The foregoing resolution was thereupon declared duly adopted.

STATE OF NEW YORK)) SS.:
COUNTY OF ORANGE)
I the undersigned Secre	etary of City of Newburgh Industrial Development Agency (the "Agency"),
do hereby certify that I have con of the Agency held on March 1	mpared the foregoing extract of the minutes of the meeting of the members 7, 2025 with the original thereof on file in my office, and that the same is a riginal and of the whole of said original so far as the same relates to the
(B) said meeting was in all resp "Open Meetings Law"), said me	Y that (A) all members of the Agency had due notice of said meeting; pects duly held; (C) pursuant to Article 7 of the Public Officers Law (the eeting was open to the general public, and due notice of the time and place cordance with such Open Meetings Law; and (D) there was a quorum of the throughout said meeting.
I FURTHER CERTIFY and has not been amended, repe	that, as of the date hereof, the attached Resolution is in full force and effect ealed or rescinded.
IN WITNESS WHERE day of March, 2025.	OF, I have hereunto set my hand and affixed the seal of the Agency this
	Secretary
(SEAL)	

EXHIBIT A THIRD AMENDMENT TO LEASE

[See Attached]

THIRD AMENDMENT TO LEASE

This **THIRD AMENDMENT TO LEASE** (this "<u>Third Amendment</u>") is dated as of the date of Lessor's signature, and made effective as of the date of the last party to sign (the "<u>Effective Date</u>"), by and between **CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY**, a New York public benefit corporation, having an address of 83 Broadway, Newburgh, New York 12550 ("<u>NIDA</u>"), and **CROWN ATLANTIC COMPANY LLC**, a limited liability company organized and existing under the laws of the State of Delaware, having an address of c/o Crown Castle USA Inc., 2000 Corporate Drive, Canonsburg, Pennsylvania 15317 ("<u>Crown</u>"). All capitalized terms used but not defined herein shall have the meanings ascribed to such terms as set forth in the Lease (as defined below).

BACKGROUND

- A. The City of Newburgh is the owner of certain property located in the City of Newburgh, County of Orange, State of New York, as more particularly described in <u>Exhibit "A"</u> attached hereto and made a part hereof (the "<u>Property</u>").
- B. By a certain ground lease, dated December 31, 1997, as amended and restated by that certain First Amendment to Lease Agreement dated December 21, 1998, by and between the City of Newburgh and NIDA (the "Ground Lease"), the City of Newburgh leased a portion of the Property to NIDA to arrange for construction of a tower and an equipment shelter together with a non-exclusive easement for ingress, egress and utilities over adjacent real property as more particularly described in Exhibit B attached hereto and made a part hereof (the "Access Easement" together with the Property, hereinafter, collectively referred to as the "Premises").
- C. Pursuant to that certain Land Lease and Tower Construction Agreement, dated February 9, 1999 (the "<u>Initial Lease</u>"), as amended by that certain First Addendum to Land Lease and Tower Construction Agreement dated July 26, 1999 (the "<u>First Amendment to Lease</u>"), as further amended by that certain Second Addendum to Land Lease and Tower Construction Agreement dated August 19, 1999 (the "<u>Second Amendment to Lease</u>" together with the Initial Lease and the First Amendment to Lease, hereinafter, collectively referred to as the "<u>Lease</u>") by and between NIDA and Orange County-Poughkeepsie MSA Limited Partnership, a Delaware limited partnership ("<u>ORP</u>"), NIDA subleased the Premises to ORP and hired ORP to construct a tower on the Premises and improve the Premises for a communications facility used by the Fire, Police, Public Works and other departments of the City of Newburgh in exchange for ORP's free use of the communications facility for a term of twenty-five (25) years.
- D. Pursuant to that certain Construction, Assignment and Assumption, dated December 6, 1999, by and between ORP and Crown, ORP assigned and transferred to Crown all of ORP's right, title and interest in and to the Lease and the Premises.
- E. NIDA and Crown desire to amend the Lease upon the terms and conditions set forth in this Amendment.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of

which is hereby acknowledged, NIDA and Crown hereby agree that the Lease is hereby amended as follows, effective as of the Effective Date:

- 1. Renewal Term. At the end of the Term, the Lease shall automatically renew for five (5) successive five (5)-year periods commencing on September 10, 2024, and terminating on September 9, 2049 (each five-year renewal period hereinafter referred to as a "Renewal Term"), on the terms and conditions set forth in the Lease, as modified by this Third Amendment.
- **2.** <u>Early Termination Option</u>. After the second Renewal Term, NIDA, in its sole discretion, shall have the option to terminate the Lease ("<u>Early Termination Option</u>") upon providing Crown at least twelve (12) month's prior written notice ("<u>Early Termination Notice</u>") that it is exercising the Early Termination Option. The date set forth in the Early Termination Notice shall be the "<u>Early Termination Date</u>." Crown shall vacate and surrender possession of the Premises on the Early Termination Date in accordance with the Lease and the parties shall thereafter be relieved of any further obligations and liabilities under the Lease except for those provisions which survive the termination of the Lease.
- 3. Option to Relocate. As long as Crown is not in default under any provision of the Lease and NIDA intends to exercise the Early Termination Option for purposes of developing on the Property, NIDA shall offer Crown the option to relocate the communication tower to another site under the exclusive control of NIDA that is agreed upon by the parties upon the same terms as this Lease for the remainder of the Renewal Term.
- **4.** <u>Fee.</u> As consideration for entering into this Third Amendment, Crown shall pay NIDA, no later than sixty (60) days from the Effective Date, one lump sum payment of Twenty Thousand and 00/100 Dollars (\$20,000.00) in immediately available funds at NIDA's address set forth above.
- **5.** <u>Maintenance</u>. Notwithstanding Crown's maintenance obligations set forth in the Lease, Crown shall also be responsible, at its sole cost and expense, for performing all work associated with the maintenance, repair, replacement, use and operation of the Premises, and any access roads therefor, in compliance with all laws, ordinances, orders, rules, regulations and requirements of any federal, state or municipal government or agency thereof.
- **6.** <u>Notices to NIDA</u>. Any and all notices to NIDA under or in connection with the Lease shall be transmitted to NIDA at its address first set forth above with any copy(ies) transmitted to Whiteman Osterman & Hanna LLP, One Commerce Plaza, Albany, New York 12260, Attn: Robert J. McLaughlin, Esq.

7. Representations and Warranties.

(A) As additional consideration for the modifications set forth herein, Crown represents and warrants to, and covenants with, NIDA as follows: (a) Crown has not assigned any of its interest in the Lease; (b) Crown, as of the date of this Third Amendment, has no claim, charge, defense, abatement, or offset under the Lease against its performance of the terms and conditions of the Lease including, without limitation, Crown's payment of charges due or to become due thereunder; (c) as of the date hereof, there exists no events or conditions that, with the passage of time, the giving of notice, or both, would constitute a default by NIDA under the Lease; (d) Crown has the full right, power and authority to enter into this Third Amendment, which Third

Amendment is binding upon Crown in all respects upon full-execution hereof by said Crown, and to fulfill all of its obligations hereof without the requirement of any approval, consent or other authorization from any third-party (or which such approval, consent or other authorization is in full force and effect on the date hereof); (e) there are no actions pending, and to the best of Crown's knowledge, there are no actions threatened or contemplated, whether voluntary or otherwise, against Crown under the bankruptcy or insolvency laws of the United States or any state in which Crown is the bankrupt or insolvent party; (f) Crown has not dealt with any broker or agent in connection with the negotiation and execution of this Third Amendment, and no commission or compensation is therefore due on account of Crown's negotiation and entry into this Third Amendment; and (g) Crown hereby discharges NIDA, its successors, agents and assigns, from any and all causes of action, suits, debts, controversies, and claims arising out of Crown's tenancy and/or occupancy or use of the Premises from February 9, 1999, to the date of this Third Amendment.

- (B) NIDA represents and warrants to Crown as follows: (a) NIDA is seized of good and sufficient leasehold interest to the Premises, and has full authority to enter into and execute this Third Amendment and to perform all of its obligations under the Lease; (b) there are no pending or, to the best of its knowledge, threatened actions in the nature of foreclosure of any mortgage or other lien against the Premises or NIDA's leasehold interest thereto; and (c) as of the date hereof, there exists no events or conditions that, with the passage of time, the giving of notice, or both, would constitute a default by Crown under the Lease.
- 8. Reservation of Rights; Construction. NIDA and Crown acknowledge and agree that this Third Amendment shall not constitute a waiver of any payment or other obligation of Crown under the Lease, and NIDA reserves any and all of its rights with respect to any Crown default now or hereafter existing under the Lease. NIDA and Crown further acknowledge and agree that all of terms and conditions of the Lease remain in full force and effect and shall apply and govern as if set forth herein except as the same are modified by this Third Amendment. In the event there is a conflict between the terms of this Third Amendment and the terms of the Lease or previously executed amendments, the terms of this Third Amendment shall control.
- **9.** <u>Default</u>. The parties agree that the default provisions under the Lease shall apply to the terms, conditions, and covenants of this Third Amendment.

10. Miscellaneous.

(a) This Third Amendment, including the recitals set forth under the BACKGROUND section above, which constitute a material part hereof, contains the entire agreement of NIDA and Crown with respect to the subject matter hereof, and any agreement hereafter made shall not operate to change, modify, or discharge the Lease as amended by this Third Amendment in whole or in part unless such agreement is in writing and signed by NIDA and Crown. For purposes of clarity, the "Lease" shall refer to the Lease as modified by all amendments, including this Third Amendment. The section headings used herein are solely for the purpose of reference, and shall not in any way affect or be construed as modifying the meaning or interpretation of the provisions hereof. This Third Amendment shall be construed and enforced in accordance with the laws of the State of New York without giving effect to conflict of laws or choice of laws rules.

- (b) This Third Amendment may be executed in multiple counterparts, all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or email transmission shall be effective as delivery of an original hard-copy counterpart.
- (c) If the Lease is terminated, this Third Amendment shall also thereupon automatically terminate, subject to any rights, duties or obligations which by their terms survive such termination.

[Remainder Of Page Intentionally Left Blank; Signature Page Follows]



IN WITNESS WHEREOF, the undersigned have duly executed this THIRD AMENDMENT TO LEASE effective as of the date first set forth above.

NIDA:	CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY
	Ву:
	Name: Michael Neppl
	Title: Chair
	Date:
<u>CROWN</u> :	CROWN ATLANTIC COMPANY LLC,
	a Delaware limited liability company
	By:
	Name:
	Title:
	Date:

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY [To be attached]



EXHIBIT "B"

LEGAL DESCRIPTION OF ACCESS EASEMENT [To be attached]

