

CITY OF NEWBURGH
INDUSTRIAL DEVELOPMENT AGENCY

Resolution No. 2023-01-18-03

**RESOLUTION AUTHORIZING A DEVIATION NOTICE
FROM THE AGENCY'S UNIFORM TAX EXEMPTION POLICY
191 WASHINGTON STREET LLC**

A regular meeting of the City of Newburgh Industrial Development Agency (the "Agency") was convened in public session at City Hall, 83 Broadway, 3rd Floor, Newburgh, New York January 18, 2023 at 6:00 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:

Marlon Ramos	Chairperson
Christina Amato	First Vice Chairperson
Adam Pollick	Treasurer
Gregory Nato	Secretary
Robin Yaniyah Pearson	Member
Theresa Priester	Member

ABSENT:

Michael Kelly	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 Secretary Gregory Nato, seconded by First Vice Chairperson Christina Amato, to wit:

RESOLUTION AUTHORIZING THE CHAIR OR ANY VICE CHAIR OR OFFICER OF THE CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY TO SEND A LETTER TO THE CHIEF EXECUTIVE OFFICERS OF THE AFFECTED TAXING ENTITIES INFORMING THEM OF A PROPOSED DEVIATION FROM THE AGENCY'S UNIFORM TAX EXEMPTION POLICY IN CONNECTION WITH THE PROPOSED 191 WASHINGTON STREET LLC PROJECT.

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 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, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, on April 13, 2022, 191 Washington Street LLC, a New York limited liability company, or such other person(s) or entities as may be designated by the Company and agreed upon by the Agency (collectively, the "Company"), submitted an application to the Agency, as amended by letter dated October 18, 2022 (the "Application"), a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project consisting of the following: (A) the acquisition of an interest in an approximately 40,000 square foot parcel of real property located at 191 Washington Street, Newburgh, New York (the "Land"), (2) the construction and improvement of two (2) new buildings on the Land totaling approximately 70,000 square feet to consist of twelve (12) residential units and commercial space including offices and a farm brewery (the "Facility") and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the "Equipment") (the Land, the Facility, and the Equipment hereinafter collectively referred to as the "Project Facility"), (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on November 21, 2022 (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, the Agency received its Cost Benefit Analysis dated August 22, 2022 (revised November 4, 2022) and the Test of Reasonableness Findings dated August 18, 2022 conducted by its agent MRB Group; and revised November 7, 2022.

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Chairperson 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, which notice was mailed and hand delivered on November 29, 2022 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 Public Hearing to be posted on November 29, 2022 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 November 29, 2022; (C) caused notice of the Public Hearing to be published on December 2, 2022 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 December 19, 2022 at 5:30 o'clock p.m., local time in person at City Hall, 83 Broadway, 3rd Floor, Newburgh, New York; and (E) prepared a report of the Public Hearing (the "Hearing Report") fairly summarizing the views presented at such Public Hearing; and

WHEREAS, a copy of the Hearing Report will be made available to the members of the Agency and the public prior to any vote considering the Financial Assistance; and

WHEREAS, in connection with the Application, the Company has made a request to the Agency (the "Pilot Request") at the Agency's regular meeting held on November 21, 2022, to deviate from its uniform tax exemption policy (the "Policy") with respect to the payments to be made under a payment in lieu of tax agreement by and between the Agency and the Company (the "Proposed Pilot Agreement"); and

WHEREAS, pursuant to Section 874(4) of the Act and the Policy, prior to taking final action on the Pilot Request for a deviation from the Policy, the Agency must give the chief executive officers of the County and each city, town, village and school district in which the Project is located (collectively, the "Affected Tax Jurisdictions") prior written notice of the proposed deviation from the Policy and the reasons therefore; and

WHEREAS, the Policy provides that the real property tax abatements to be provided by the Agency shall apply only to the value added by an applicant's construction or renovation activities to the existing parcel and improvements involved (the "Added Value"); and

WHEREAS, the comparison of the current Added Value of the Project to the proposed deviation from the Policy proposed by the Company are set forth below:

PILOT TAX YEAR	PILOT PAYMENT DUE	APPROXIMATE PILOT PERCENTAGE*
1	\$50,671	90%
2	\$60,781	88%
3	\$71,275	86%
4	\$82,164	84%
5	\$93,461	83%
6	\$105,176	81%
7	\$117,323	79%
8	\$135,036	76%
9	\$163,859	72%
10	\$193,781	67%

11	\$224,835	63%
12	\$284,774	54%
13	\$347,021	45%
14	\$498,169	24%
15 and Thereafter	Full Tax	0%

*For illustrative purposes only.

The Policy also provides that the period of the exemption will not exceed the period of the respective financing or lease and will be for a period of up to ten (10) years; and

WHEREAS, pursuant to Section 856(15) of the Act, unless otherwise agreed by the Affected Tax Jurisdictions, payments in lieu of taxes must be allocated among the Affected Tax Jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each Affected Tax Jurisdiction had the Project Facility not been tax exempt due to the status of the Agency; and

WHEREAS, pursuant to Section 874(4) of the Act and the Policy, prior to taking final action on the Pilot Request for a deviation from the Policy, the Agency must adopt a resolution setting forth, with respect to the proposed deviation: (a) the amount of the proposed Tax Exemption, (b) the amount and nature of the proposed PILOT, (c) indicating the reasons for the proposed deviation, and (d) whenever possible, provide the Affected Tax Jurisdictions prior written thirty (30) days' notice of the proposed deviation from the Policy and the reasons therefore; and

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

Section 1. Having considered both the Application, the Pilot Request and the Policy, the Agency hereby authorizes the Chair, any Vice Chair or any Officer of the Agency, to send a written notice to the chief executive officers of each of the Affected Tax Jurisdictions informing them that the Agency is considering a proposed deviation from the Policy with respect to the Project and the reasons therefore (in substantially the form of the draft of said letter attached hereto as Exhibit A), and soliciting any comments that such Affected Tax Jurisdictions may have with respect to said proposed deviation.

Section 2. The Affected Tax Jurisdictions are notified that the Agency hereby determines that thirty (30) days' notice is not practicable in this circumstance. Accordingly, the Agency will consider comments received by the Affected Tax Jurisdictions and others at its regular meeting of the Agency to be held on February 22, 2022 commencing at 5:30 o'clock p.m.

Section 3. This Resolution shall take effect immediately.

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

Marlon Ramos	VOTING	YES
Christine Amato	VOTING	YES
Michael Kelly	VOTING	ABSENT
Adam Pollick	VOTING	YES
Gregory Nato	VOTING	YES
Robin Yanyiah Pearson	VOTING	YES
Theresa Priester	VOTING	YES

The foregoing Resolution was thereupon declared duly adopted

STATE OF NEW YORK

) ss.:

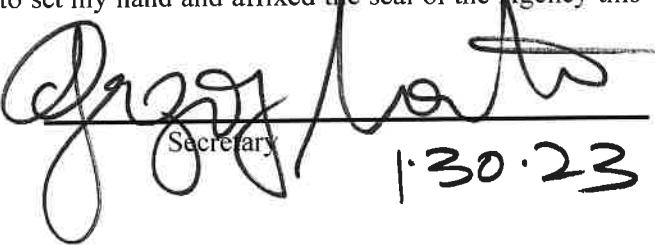
COUNTY OF ORANGE

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 January 18, 2023 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"), as amended by Executive Order 202.1, as amended and extended, said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this ___ day of January 2023.


Secretary
1.30.23

(SEAL)

EXHIBIT A

NOTICE OF DEVIATION TO THE AFFECTED TAX JURISDICTIONS ISSUED IN ACCORDANCE
WITH AGENCY RESOLUTION DATED JANUARY 18, 2023

NOTICE OF SECOND PUBLIC HEARING
ON PROPOSED PROJECT
AND FINANCIAL ASSISTANCE
RELATING THERETO

Notice is hereby given that a second public hearing pursuant to Sections 856(15), 859-a(2) and 874(4) of the General Municipal Law of the State of New York (the "Act") will be held by the City of Newburgh Industrial Development Agency (the "Agency") on the 222nd day of February, 2023 at 5:30 o'clock p.m., local time, at the office of the Agency located at City Hall, 83 Broadway, Orange County, Newburgh, New York in connection with the following matters:

191 Washington Street LLC, a New York limited liability company, or such other person(s) or entities as may be designated by the Company and agreed upon by the Agency (collectively, the "Company"), submitted an application to the Agency, as amended by letter dated October 18, 2022 (the "Application"), a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project consisting of the following: (A) the acquisition of an interest in an approximately 40,000 square foot parcel of real property located at 191 Washington Street, Newburgh, New York (the "Land"), (2) the construction and improvement of two (2) new buildings on the Land totaling approximately 70,000 square feet to consist of twelve (12) residential units and commercial space including offices and a farm brewery (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.

The Agency held an initial public hearing on the Application on December 19, 2022 (the "First Public Hearing") and desires to hold a second public hearing (the "Second Public Hearing") for the public to comment and assist the Agency in its consideration of whether (A) to undertake the Project, (B) to provide certain exemptions from taxation with respect to the Project, including (1) exemption from mortgage recording taxes with respect to any documents, if any, recorded by the Agency with respect to the Project in the office of the County Clerk of Orange County, New York or elsewhere, (2) exemption from deed transfer taxes on any real estate transfers, if any, with respect to the Project, (3) exemption from sales taxes relating to the acquisition, construction, renovation and installation of the Project Facility, and (4) in the event that the Project Facility would be subject to real property taxation if owned by the Company but shall be deemed exempt from real property taxation due to the involvement of the Agency therewith, exemption from real property taxes (but not including special assessments and special ad valorem levies), if any, with respect to the Project Facility, subject to the obligation of the Company to make payments in lieu of taxes with respect to the Project Facility. If any portion of the Financial Assistance to be granted by the Agency with respect to the Project is not consistent with the Agency's uniform tax exemption policy, the Agency will follow the procedures for deviation from such policy set forth in Section 874(4) of the Act prior to granting such portion of the Financial Assistance. At the Second Public Hearing, the Agency will also request comments regarding a proposed deviation for the Project from its Uniform Tax Exempt Policy as required by the Act.

If the Agency determines to proceed with the Project, the Project Facility will be acquired, constructed, reconstructed and installed by the Agency and will be leased (with an obligation to purchase)

or sold by the Agency to the Company or its designee pursuant to a project agreement (the “Agreement”) requiring that the Company or its designee make certain payments to the Agency.

The Agency has not yet made a determination pursuant to Article 8 of the Environmental Conservation Law (the “SEQR Act”) regarding the potential environmental impact of the Project.

The Agency will at said time and place continue to hear all persons with views on either the location and nature of the proposed Project, or the Financial Assistance being contemplated by the Agency in connection with the proposed Project. A copy of the Application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, is available for public inspection during business hours at the offices of the Agency. The Application for the Company is included in the application of the Project’s owner/sponsor, Grand Street Newburgh Property Co, LLC. The entire Project will be considered at the Public Hearing. A transcript or summary report of the First Public Hearing is available at the Agency’s YouTube channel at: <https://www.youtube.com/channel/UCOeSbDpW3ex3TVZvU-hckQw>. A transcript or summary report of the Second Public Hearing will be made available to the members of the public and the Agency.

Additional information can be obtained from, and written comments may be addressed to: Cherisse Vickers, Executive Director, City of Newburgh Industrial Development Agency, 83 Broadway, Newburgh, New York 12550; Telephone: 845-569-7369.

Dated: January 23, 2023.

CITY OF NEWBURGH INDUSTRIAL
DEVELOPMENT AGENCY

A handwritten signature in black ink, appearing to read 'Cherisse Vickers', with a long horizontal line extending to the right.

Cherisse Vickers
Executive Director