

**CITY OF NEWBURGH
INDUSTRIAL DEVELOPMENT AGENCY**

Resolution No. 2025-04-21-06

**COMMERCIAL/RETAIL FINDINGS RESOLUTION
LIBERTY STREET APARTMENTS, LLC PROJECT**

A regular meeting of the City of Newburgh Industrial Development Agency (the “Agency”) was convened in public session at the Newburgh Activity Center, 401 Washington Street, Newburgh, New York on April 21, 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 Nepl | Chair |
| Alexandra Church | Vice Chair |
| Vickiana DeMora | Treasurer |
| Sharonda Powell | Member |

ABSENT:

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

| | |
|----------------------------|-------------------------|
| Cherisse Vickers | Executive Director |
| Adriana Huaynalaya | Financial Administrator |
| Robert J. McLaughlin, Esq. | Agency Counsel |

The following resolution was offered by Alexandra Church, seconded by Vickiana DeMora, to wit:

RESOLUTION (A) DETERMINING THAT THE PROPOSED FOR LIBERTY STREET APARTMENTS, LLC IS A COMMERCIAL PROJECT AND (B) MAKING CERTAIN FINDINGS REQUIRED UNDER THE GENERAL MUNICIPAL LAW.

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

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

WHEREAS, on August 16, 2024, Liberty Street Apartments, LLC, by its predecessor in interest, 50-72 Liberty Street LLC (collectively, the "Company"), or such other person(s) or entities as may be designated by the Company and agreed upon by the Agency (those designated persons or entities included in the definition of the Company), submitted an application to the Agency, which application has been updated and amended by the Company prior to the holding of the public meeting described below (collectively, the "Application"), a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project consisting of the following: (A) the acquisition of an interest in parcels of real property consisting of approximately 1.344 acres located at 50-72 Liberty Street, Newburgh, New York (the "Land"), (2) the construction and improvement of a new mixed-use building on the Property totaling approximately 200,000 square feet consisting of market-rate housing, affordable housing, commercial retail space and a parking garage (collectively, the "Facility"), and (4) 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, the Application addresses a housing need in the City of Newburgh which is consistent with Governor Hochul’s Executive Order No. 30 (July 18, 2023) (the “Executive Order”) requiring all Affected State Entities (including public authorities defined in section two of the public authorities law) to consider the goal of creating additional housing in any policy or programmatic decisions and where appropriate shall collaborate with other Affected State Entities to effectuate that goal; and

WHEREAS, by Resolution Nos. 2024-12-16-02 and 2024-10-21-03, adopted by the members of the Agency respectively on December 16, 2024 and October 21, 2024 (collectively, the “Public Hearing Resolution”), the Agency authorized a public hearing (the “Public Hearing”) to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, in connection with the Application, the Company has made a request to the Agency (the "Pilot Request") to deviate from its Uniform Tax Exemption Policy (the "Policy") with respect to the term of the 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 of Orange, the City of Newburgh, and the Newburgh Enlarged City School District, the school district in which the Project is located (collectively, the "Affected Tax Jurisdictions") prior written notice (the “Deviation Notice”) of the proposed deviation from the Policy and the reasons therefore; and

WHEREAS, the Pilot Request was for a term of thirty-two (32) years for the entire parcel of the Project Facility, including the existing land and new improvements; and

WHEREAS, the Pilot Request of thirty-two (32) years is consistent with the provisions of Section 577 of the Private Housing Finance Law, which permits tax exemption for a housing development up to forty (40) years; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Chair and the Executive Director of the Agency (A) caused notice of the Public Hearing of the Agency 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, including the Pilot Request for a deviation from the Policy, to be mailed on January 6, 2025 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 December 19, 2024 on the Agency’s website and also on a public bulletin board located at the Newburgh City Hall located at 83 Broadway, City of Newburgh, Orange County, New York, (C)

caused notice of the Public Hearing to be published on December 22, 2024 in the Times Herald Record, a newspaper of general circulation available to the residents of the City of Newburgh, Orange County, New York, (D) conducted the Public Hearing on January 22, 2025 at 6:30 o'clock p.m., local time at offices of the Newburgh Activity Center, 401 Washington Street, Newburgh, New York, and (E) caused to be prepared a report of the Public Hearing (the "Public Hearing Report") fairly summarizing the views presented at such Public Hearing and caused a copy of said Public Hearing Report to be made available to the members of the Agency and the public by posting the same to the Agency website; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York at 6 NYCRR Part 617 (the "Regulations", and collectively with the SEQR Act, "SEQRA"), the Agency has been informed that (1) the City of Newburgh Planning Board (the "Planning Board") declared its intent to act as "lead agency" for a "coordinated review" of a "Type I Action" with respect to the Project on December 19, 2023, (2) the Planning Board exercised due diligence in identifying other "involved agencies" known at that time; (3) the Planning Board declared itself as the Lead Agency for the coordinated review of the Project on February 20, 2024 pursuant to 6 NYCRR 617.6; and (4) the Planning Board issued a Determination of Significance through the issuance of a Negative Declaration issued on June 18, 2024 (the "Negative Declaration"), determining that the acquisition, reconstruction, renovation and installation of the Project Facility will not have any significant adverse environmental impacts; and

WHEREAS, the Agency determined by Resolution No. 2025-04-21-05 dated April 21, 2025 (the "SEQRA Resolution") that (i) the Agency is an "involved agency" with respect to the Project, (ii) the Agency (1) concurred in the determination by the Planning Board, as "lead agency" with respect to the Project, to acknowledge receipt of a copy of the Negative Declaration and (2) determined that it had no information to suggest that the Planning Board was incorrect in determining that the Project will not have a "significant effect on the environment" pursuant to SEQRA and (iii) that by reason of the foregoing, the Agency determined that no environmental impact statement need be prepared with respect to the Project; and

WHEREAS, 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, to aid the Agency in determining whether the Project qualifies for Financial Assistance as a commercial project within the meaning of the Act, the Agency has reviewed the following (collectively, the "Project Qualification Documents"): (A) the Application; (B) the published Cost Benefit Analysis dated December 6, 2024, as amended and updated (the "CBA"), and prepared by the MRB Group at the request of the Agency and which was discussed with the

public at the Public Hearing; (C) the published Test of Reasonableness dated December 5, 2024, as amended and updated, and prepared by the MRB Group at the request of the Agency and which was discussed with the public at the Public Hearing; (D) the transcript of the Public Hearing; (E) the Opinion of the State Comptroller Number 85-51; (F) the Executive Order; (G) the Newburgh Housing Report (Working Paper I: Housing Needs Assessment) dated June 4, 2021; and (H) copies of correspondence from the public supporting the commercial/economic impacts of the Project (the “Local Support”); and

WHEREAS, pursuant to the CBA, the Project is projected to (A) create approximately 158 direct and indirect full-time equivalent construction jobs at the Project Facility during the approximately thirty-six month construction period; (B) the Project will result in 52 permanent jobs, from new household spending and onsite operations, earning approximately \$2,488,153.00 in wages on an annual basis; (C) Orange County will benefit from additional, one-time sales tax revenue of \$48,343.00 associated with construction wages earned during the construction phase and additional sales tax revenue of \$259,463.00 related to new wages earned from permanent jobs and additional sales tax revenue of \$752,512.00 related to new household spending; and (D) over the course of the 32 years, the Project will generate an increase of \$7,982,371.00 in additional property tax revenue on the current taxes for Orange County, the City of Newburgh, and the Newburgh Enlarged City School District; and

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

WHEREAS, pursuant to 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 Sections 859-a and 874(4) 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 Sections 859-a and 874(4) of the Act with respect to the Project, the Agency now desires 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, not-for-profit, commercial, retail, and service uses.

B. The Project Qualification Documents makes the following comments/findings regarding housing in the City of Newburgh:

- Project will make the City more walkable with addition of street lights, newly paved sidewalks and small changes to the routing of traffic;
- Project will add affordable housing, a major benefit to the community, addressing a critical need that will provide stability and opportunities for local residents;
- Project has an opportunity to extend what's already happening on Liberty Street and just make that whole area a "core district" for the City rather than the vacant site in disrepair; it would be amazing to get something done after many decades of being vacant and empty; a beautiful project that would add a lot of value to the City.

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

D. The Company has informed the representatives of the Agency that the Project will result in the expansion of the local consumer base which will increase support for local business and employers.

E. The Company has informed the Agency that the Project is expected to create approximately two (2) full time or part time private sector jobs at the residential units of the Project Facility, plus twelve (12) full time or part time private sector jobs at the commercial units of the Project Facility, and up to six (6) indirect full time or part time private sector jobs at the Project Facility within twelve (12) months of completion of the Project. In addition, the Company expects to create one hundred forty-eight (148) direct and ten (10) indirect full time equivalent construction jobs at the Project Facility.

F. 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 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. 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, reconstruction, renovation and installation of the Project Facility is essential to the retention of existing employment and 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, including the written comments received from various individuals and businesses, 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:

| | | |
|------------------|--------|-----|
| Michael Nepl | VOTING | YES |
| Alexandra Church | VOTING | YES |
| Vickiana DeMora | VOTING | YES |
| Sharonda Powell | VOTING | YES |

The foregoing Resolution was thereupon declared duly adopted.

