

CITY OF NEWBURGH  
INDUSTRIAL DEVELOPMENT AGENCY

Resolution No. 2021-05-17-02

**RESOLUTION AUTHORIZING A DEVIATION NOTICE  
FROM THE AGENCY'S  
UNIFORM TAX EXEMPTION POLICY  
104 WASHINGTON ST, LLC PROJECT**

A regular meeting of the City of Newburgh Industrial Development Agency (the "Agency") was convened in accordance with Governor Cuomo's Executive Orders Nos. 202.1 and 202.15, as amended and extended, by video conference on May 17, 2021 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:

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 Adam Pollick, to wit:

Resolution No. 2021-05-17-02

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 104 WASHINGTON ST, 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 September 8, 2020, 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 and on the Agency website, requesting that the Agency consider undertaking a project (the "Project") for the benefit of the Company and providing certain requested financial assistance to the Project and to the Company, 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, 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 Executive Director 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 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 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 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 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 Public Hearing (the "Hearing Report") fairly summarizing the views presented at such Public Hearing and caused copies of said Hearing Report to be made available to the members of the Agency; and

WHEREAS, in connection with the Application, the Company has made a request to the Agency (the "Pilot Request") in its amended Application submitted on April 20, 2021 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:

<b><u>TAX YEAR</u></b>	<b><u>Estimated Existing Real Estate Taxes Assessed</u></b>	<b><u>Proposed PILOT Payment</u></b>
1	\$3,255.00	\$3,255.00
2	3,320.00	6,158.00
3	3,387.00	9,060.00
4	3,387.00	11,962.00
5	3,387.00	14,865.00
6	3,387.00	17,767.00
7	3,387.00	20,670.00
8	3,387.00	23,572.00

9	3,387.00	26,475.00
10	3,387.00	38,085.00
11	3,387.00	49,694.00
12	3,387.00	55,499.00
13	3,387.00	72,914.00
14	3,387.00	72,914.00
15	3,387.00	96,134.00
<b><u>TOTAL</u></b>	<b><u>\$50,600.00</u></b>	<b><u>\$519,024.00</u></b>

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 sufficient in this circumstance. Accordingly, the Agency will consider comments received by the Affected Tax Jurisdictions at a public hearing meeting of the Agency to be held on or about June 10, 2021 commencing at 4:00 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:

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

The foregoing Resolution was thereupon declared duly adopted

STATE OF NEW YORK

) ss.:

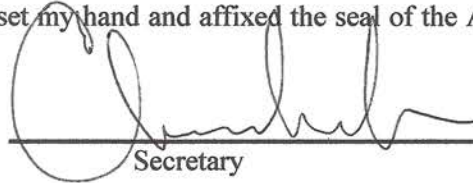
COUNTY OF ORANGE

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 May 17, 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"), 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 17 day of May 2021.

  
Secretary

(SEAL)

**EXHIBIT A**

NOTICE OF DEVIATION TO THE AFFECTED TAX JURISDICTIONS ISSUED IN ACCORDANCE  
WITH AGENCY RESOLUTION DATED May 17, 2021

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY  
83 Broadway, Third Floor  
Newburgh, New York 12551-1298  
Tel: 845-569-7369

May 20, 2021

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

The Honorable Steven M. Neuhaus  
County Executive of Orange County  
Orange County Government Center  
255 Main Street  
Goshen, New York 10924

Robert Padilla, Superintendent of Schools  
Newburgh Enlarged School District  
124 Grand Street  
Newburgh, New York 12550

The Honorable Torrance Harvey, Mayor  
City of Newburgh  
83 Broadway  
Newburgh, New York 12551

Carol Mineo, Board President  
Newburgh Enlarged School District  
124 Grand Street  
Newburgh, New York 12550

RE: Proposed Deviation from Uniform Tax Exemption  
policy by the City of Newburgh Industrial  
Development Agency (“Agency”) in connection with  
its Proposed 104 Washington St, LLC Project

Honorable Sirs and Madame:

This letter is delivered to you pursuant to Section 874(4)(b) of the General Municipal Law.

On or about September 8, 2020, 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 and on the Agency website, requesting that the Agency consider undertaking a project (the "Project") for the benefit of the Company and providing certain requested financial assistance to the Project and to the Company, 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.

At its regular meeting held on May 17, 2021, the Company made a request to the Agency (the "Pilot Request") to enter into a payment in lieu of tax agreement (the "Proposed Pilot Agreement") which terms deviate from the recently approved Agency Uniform Tax Exemption Policy (the "Policy"). (Capitalized terms not otherwise defined herein are defined in the Policy which can be viewed at <https://www.cityofnewburgh-ny.gov/industrial-development-agency/pages/policies-by-laws>.) Pursuant to the General Municipal Law, Section 874(4) and the Policy, prior to taking final action on such Proposed 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, and (c) indicating the reasons for the proposed deviation. This letter is intended to fulfill such requirement.

The Proposed Pilot Agreement would be for a term of up to 15 years, with the Company making the payments in each year as a Pilot Payment as follows:

[DRAFT - TO BE FINALIZED]

<b><u>TAX YEAR</u></b>	<b><u>Estimated Existing Real Estate Taxes Assessed</u></b>	<b><u>Proposed PILOT Payment</u></b>
1	\$3,255.00	\$3,255.00
2	3,320.00	6,158.00
3	3,387.00	9,060.00
4	3,387.00	11,962.00
5	3,387.00	14,865.00
6	3,387.00	17,767.00
7	3,387.00	20,670.00
8	3,387.00	23,572.00
9	3,387.00	26,475.00
10	3,387.00	38,085.00
11	3,387.00	49,694.00
12	3,387.00	55,499.00
13	3,387.00	72,914.00
14	3,387.00	72,914.00
15	3,387.00	96,134.00
<b><u>TOTAL</u></b>	<b><u>\$50,600.00</u></b>	<b><u>\$519,024.00</u></b>

The purpose of this letter is to inform you of such Pilot Request and that the Agency is considering whether to grant the Pilot Request and to approve a Proposed Pilot Agreement conforming to the terms of the Pilot Request. The Agency expects to consider whether to approve the terms of the Proposed Pilot Agreement at a public hearing scheduled for June 10, 2021 at 4:00 p.m., local time pursuant to video or telephone conference call (the "Meeting"). This letter is forwarded to you for purposes of complying with Section 874 of the General Municipal Law of the State of New York and the Policy, which requires notice prior to the Agency taking final action with respect to the Proposed Pilot Agreement (if said Proposed Pilot Agreement may deviate from the provisions of the Policy).

The Agency considered the following factors in considering the proposed deviation:

1. The nature of the Project: Development and competition of a commercial and residential project located at 104 Washington Street, Newburgh, NY.
2. The present use of the property: vacant and abandoned. The proposal would qualify as an adaptive reuse of the structure.
3. The economic condition of the area at the time of the request of the Company and the economic multiplying effect that the Project will have on the area: At the time of the filing of the Application, the economic condition of the area in which the Project Facility is to be located is distressed. The Poverty Rate of the area for 2019 was 25.4%; the Public Assistance Rate for 2019 was 41.10%. The Project is expected to create approximately 20 construction jobs and up to 5-10 new jobs within two years of Project commencement. Additionally, the Project will create induced jobs in the retail area of the Project within three years of Project commencement.
4. The extent to which the Project will create or retain permanent, private sector jobs and the number of jobs to be created or retained and the salary range of such jobs: In the Application, the Company expects to potentially create 5-10 new jobs. The Company also expects that the Project will create approximately 20 construction jobs as well as dozens of induced jobs in the retail area of the Project. The Applicant has indicated that the majority of the construction jobs will be filled by local labor.
5. The estimated value of new tax exemptions to be provided: Real property tax exemption benefit of approximately \$1,271,277; mortgage recording tax exemption of approximately \$35,000; and sales tax exemption benefit of approximately \$155,000.
6. The economic impact of the Proposed Pilot Agreement on affected tax jurisdictions: The economic impact of the Proposed Pilot Agreement on affected tax jurisdictions is positive. The development of the Project Facility is expected to result in local construction jobs, the creation of permanent jobs and the development of additional retail projects in the area covered by the City of Newburgh Local Waterfront Revitalization Plan.
7. The impact of the Proposed Pilot Agreement on existing and proposed businesses and economic development projects in the vicinity: The impact of the Project is a positive one on the community. The area around the Project is deteriorated. The Project will create 8 apartments for approximately 29 individuals. This will create the need for additional local retail establishments leading to induced jobs.

8. The amount of private sector investment generated or likely to be generated by the Proposed Pilot Agreement: \$5,600,000.

9. The effect of the Proposed Pilot Agreement on the environment: The Project is a consistent with prior approvals for the site which previously determined that there would be no detrimental effect on the environment.

10. Project Timing: Anticipated to be completed within 24 months of the commencement date of approximately September 2021.

The Agency will consider the Proposed Pilot Agreement (and the proposed deviation from the Policy) at the Meeting. The Agency would welcome any written comments that you might have on this proposed deviation from the Policy. In accordance with Section 874(4)(c) of the General Municipal Law, prior to taking final action at the Meeting, the Agency will review and respond to any written comments received from any affected tax jurisdiction with respect to the proposed deviation. The Agency will also allow any representative of any affected tax jurisdiction present at the Meeting to address the Agency regarding the proposed deviation.

If you have any questions or comments regarding the foregoing, please do not hesitate to contact me at the above telephone number.

Sincerely,

A handwritten signature in black ink, appearing to read 'Austin DuBois', with a stylized flourish at the end.

Austin DuBois, Chair  
City of Newburgh  
Industrial Development Agency