

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

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

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

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

PRESENT:

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

ABSENT:

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

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

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

Resolution No. 2021-07-14-02

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

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

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

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

WHEREAS, 104 Washington St, LLC, a New York limited liability company (the "Company") or such other person(s) or entities as may be designated by the Company and agreed upon by the Agency (collectively, the "Company"), submitted an application (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project"), said Project consisting of the following: (A) the acquisition of an interest in an approximately 5,000 square foot parcel of real property located at 104 Washington Street, Newburgh, NY (the "Land"), (2) the construction on the Land of improvements consisting of an office or retail space with approximately 29 residential units (the "Facility") and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the "Equipment") (the Land, the Facility, and the Equipment hereinafter collectively referred to as the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, on September 21, 2020 pursuant to Resolution No. 2020-09-21-01 (the "First Public Hearing Resolution"), the Agency authorized the holding of a public hearing on the Project and the requested financial assistance; and

WHEREAS, pursuant to the authorization contained in the First Public Hearing Resolution, the Executive Director of the Agency (A) caused notice of a public hearing of the Agency (the "First Public Hearing") pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the Financial Assistance being contemplated by the Agency with respect to the Project, to be mailed and hand delivered on December 7, 2020 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located; (B)

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

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

WHEREAS, to comply with the provisions of Section 859-a of the Act with respect to the Project, the Agency by resolution adopted by the members of the Agency on May 17, 2021 (the "Second Public Hearing Resolution"), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Second Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the "Second Public Hearing") pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on May 21, 2021 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Second Public Hearing to be posted on May 21, 2021 a public bulletin board located at the Newburgh City Hall located at 83 Broadway, City of Newburgh, Orange County, New York, (C) caused notice of the Second Public Hearing to be published on May 31, 2021 in the Times Herald Record, a newspaper of general circulation available to the residents of the City of Newburgh, Orange County, New York, (D) conducted the Second Public Hearing on June 10, 2021 at 4:30 p.m., local time by video conference call duly noticed in accordance with the Governor's Executive Order 202.1 and 202.15, as amended and extended; and (E) will prepare a report of the Second Public Hearing (the "Second Public Hearing Report") fairly summarizing the views presented at such Second Public Hearing and shall cause copies of said Second Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (the "Regulations", and collectively with the SEQR Act, "SEQRA"), the Agency has been informed that (1) the City of Newburgh Planning Board (the "Planning Board") was designated to act as "lead agency" with respect to the Project on September 15, 2020, (2) the Planning Board issued a Determination of Significance through the issuance of a Negative Declaration issued on October 20, 2020 and affirmed on May 18, 2020 (the "Negative Declaration"), attached hereto as Exhibit A, determining that the acquisition, reconstruction, renovation and installation of the Project Facility will not have any significant adverse environmental impacts, and (3) the Agency determined by resolution dated July 14, 2021 after appropriate review to (A) ratify and confirm the lead agency designation of the Planning Board and (B) find that there was no information to

suggest that the Planning Board was incorrect in determining that the Project will not have a “significant effect on the environment” pursuant to the SEQRA; and

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

WHEREAS, the Project consists of an abandoned and unstable masonry building that has been allowed to deteriorate for more than forty (40) years; and

WHEREAS, to aid the Agency in determining whether the Project qualifies for Financial Assistance as a commercial project within the meaning of the Act, the Agency has reviewed the following (collectively, the "Project Qualification Documents"): (A) the Application, including the attached Financial Impact Studies; (B) the transcript of the Public Hearings held on December 17, 2020 and June 10, 2021 and the public comments in support expressed thereat; and (C) various approvals for the Project issued by governmental departments of the City of Newburgh demonstrating public and official support for the Project (the "Local Support");

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

WHEREAS, pursuant to Section 862(2)(b) of the Act, the Agency would be authorized to provide financial assistance in respect of the Project provided that the obligation of the Agency to proceed with the Project was subject to certain conditions, including, following compliance with the procedural requirements of Section 859-a of the Act, a finding by the Agency that the Project would preserve permanent, private sector jobs in the State of New York or increase the overall number of permanent, private sector jobs in the State of New York; and

WHEREAS, having complied with the requirements of SEQRA and Section 859-a of the Act with respect to the Project, the Agency now desires, pursuant to Section 862(2)(c) of the Act, to make its final findings with respect to the Project and its final determination whether to proceed with the Project;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. That the acquisition, construction and installation of the Project Facility is essential to the creation of new employment opportunities and is essential to the prevention

of economic deterioration of businesses and neighborhoods located in the City of Newburgh.

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

F. That the undertaking of the Project will serve the public purposes of the Act by preserving and creating permanent private sector jobs in the State of New York.

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

Section 4. This Resolution shall take effect immediately.

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

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

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK

) SS.:

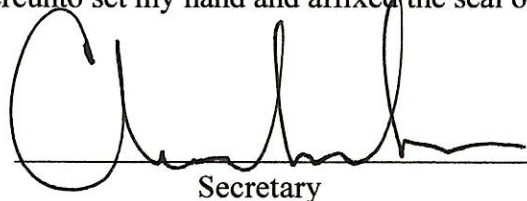
COUNTY OF ORANGE

I, the undersigned (Assistant) Secretary of City of Newburgh Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on July 14, 2021 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

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

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



Secretary

(SEAL)