

City of Albany Capital Resource Corporation

21 Lodge Street
Albany, New York 12207
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Tracy Metzger, *Chair*
Susan Pedo, *Vice Chair*
Darius Shahinfar, *Treasurer*
Lee Eck, *Secretary*
Dominick Calsolaro
Robert Schofield
Jahkeen Hoke

Sarah Reginelli, *Chief Executive Officer*
Mark Opalka, *Chief Financial Officer*
William Kelly, *Agency Counsel*

To: Darius Shahinfar
Lee Eck
Jahkeen Hoke
Tracy Metzger
Dominick Calsolaro

Cc: Robert Schofield
Susan Pedo

Sarah Reginelli
Mark Opalka
William Kelly
Joe Scott
Andy Corcione
Tammie Fanfa

Date: December 6, 2019

CRC FINANCE COMMITTEE AGENDA

A meeting of the Finance Committee of the City of Albany Capital Resource Corporation will be held on **Wednesday, December 11th at 12:15 PM** or immediately following the Finance Committee Meeting of the City of Albany IDA at 21 Lodge Street, Albany, NY 12207 (Large Conference Room).

Roll Call, Reading & Approval of the Finance Committee Meeting Minutes of November 13, 2019

Unfinished Business

- A. Commercial Corridor Retail Grant Program
 - Discussion/Possible positive/negative recommendation for Approving Resolution

New Business

- B. Professional Services Agreements 2020
 - Legal Services – General Counsel
 - Legal Services – Bond/Special Counsel
 - Professional Services
 - Contract for Services – IDA

- C. Annual Review of Corporation Policies
 - Procurement Policy
 - Investment

Other Business

- A. Corporation Update

Adjournment

The next regularly scheduled Finance Committee meeting will be held January 8, 2019 at 21 Lodge Street, Albany, NY. Please check the website www.albanyida.com for updated meeting information.

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CRC MINUTES OF FINANCE COMMITTEE MEETING

Wednesday, November 13th at 12:15 PM

Attending: Darius Shahinfar, Lee Eck, Tracy Metzger and Dominick Calsolaro

Absent: Tracy Metzger

Also Present: Sarah Reginelli, Mark Opalka, Amy Lavine, Joe Scott and Andy Corcione

Public Present: None.

Chair Darius Shahinfar called the Finance Committee meeting of the CRC to order at 12:40 p.m.

Roll Call, Reading and Approval of Minutes of the October 9, 2019 Finance Committee Meeting

Chair Darius Shahinfar reported that all Committee members were present, with the exception of Tracy Metzger. Since the minutes of the previous meeting had been distributed to Committee members in advance for review, Chair Darius Shahinfar made a proposal to dispense with the reading of the minutes. Chair Darius Shahinfar proposed to approve the minutes of the Finance Committee meeting of October 9, 2019. Dominick Calsolaro moved and Lee Eck seconded to accept the minutes as presented. A vote being taken, the motion passed unanimously.

Unfinished Business

None.

New Business

Commercial Corridor Retail Grant Program

Staff introduced draft guidelines for the newly created Commercial Corridor Retail Grant Program. Staff addressed the intent of the program, and detailed the selection process and retail conditions (current and future potential) of the four (4) commercial corridors that the program will affect. The corridors are located in four of the Neighborhood Strategy Areas as identified and targeted by the Albany Community Development Agency including: Arbor Hill, West Hill, North Albany and the South End. The Committee provided feedback on the types of desired business the program intends to attract, eligible/ineligible applicants, local labor participation, potential bidders and nuances regarding the insurance required for project applicants/bidders. Staff and Committee discussed the importance of geographic equity, providing healthy food options and supporting small businesses with limited resources. The Committee discussed the merits of the program and desire to move forward, and directed staff to amend the guidelines per the discussion. Staff indicated that they would distribute refined guidelines at the following Finance Committee meeting. No action was taken.

Capitalize Albany Corp Grants Programs Funding Allocations

Staff explained that within the 2019 Budget, \$200,000.00 was allocated for ‘Strategic Activities’. Staff and the Committee had previously analyzed and discussed the impact and performance of three (3) Capitalize Albany Corporation administered grant programs and the proposed creation of the Commercial Corridor Retail Grant Program. Staff recommended a specific disbursement of the available funds. The allocation will allow each program to continue to successfully encourage investment in the City of Albany. It was noted that any disbursement of funds allocated to the Commercial Corridor Retail Grant Program would be pursuant to Board approval of the program. A motion to advance the *Capitalize Albany Corp Grants Programs Funding Allocations* request with a positive recommendation for an Approving Resolution was made by Lee Eck, and seconded by Dominick Calsolaro. A vote being taken, the motion passed unanimously.

Other Business

Corporation Update

None.

There being no further business, the meeting was adjourned at 1:25 pm.

Respectfully submitted,

Lee Eck, Secretary



CAPITALIZE ALBANY
CORPORATION

**Commercial Corridor Retail Grant
Program**

Program Guidelines and Application
City of Albany, New York

~~November~~ December 2019

For more information, contact:
Capitalize Albany Corporation
21 Lodge Street
Albany, New York 12207
(518) 434-2532

INTRODUCTION

Capitalize Albany Corporation is a registered 501(c) (3) not-for-profit organization which implements programs and resources that create, retain, and attract business in the City of Albany, New York. Capitalize Albany Corporation facilitates transformational development projects guided by local and regional strategic planning initiatives, such as the City of Albany's Comprehensive Plan – Albany 2030.

Many existing retail facilities in the City of Albany require upgrades to suit today's business needs, and private investment cannot bear the burden of these costs alone. In order to make these projects feasible and to attract and retain the specific retail businesses that are most complementary to Albany's current housing, office, and visitor market, Capitalize Albany Corporation has designed the Commercial Corridor Retail Grant Program, a program intended to enhance, promote and strengthen neighborhood commercial centers.

PROGRAM DESCRIPTION

The Commercial Corridor Retail Grant Program is designed to create an incentive to attract new and enhance existing retail businesses in selected areas of Albany, New York. In the first phase of the program, Capitalize Albany Corporation will allocate \$50,000 in recoverable grants to eligible property or business owners with qualified projects to assist with paying some of the costs associated with renovating or preparing commercial space for an eligible retail use identified on page three (3). The program will offer direct grants from Capitalize Albany Corporation, which will be paid out to the business when the project is complete and the business is open.

Under this program, grants will be provided as a reimbursement to the applicant for the eligible costs indicated on page four (4) of these program guidelines, subject to approval by Capitalize Albany Corporation staff. The grant funds will be provided to the applicant when the project is complete and open for business. Under documented extenuating circumstances, grant funds may be provided to an applicant prior to all project costs being incurred and the project completed/business open and operating at the sole discretion of Capitalize Albany Corporation staff.

In order to produce the greatest impact on an identified neighborhood retail core, Capitalize Albany Corporation has created this program with two tracks of funding available. Track #1 has been established for new retail locations and Track #2 has been established for existing retail locations. Please note that the program guidelines for Track #1 and Track #2 will differ in some respects. However, where deviations in the program guidelines are not specifically stated, the program rules and regulations for Track #1 and Track #2 shall be the same.

Track #1 - New retail locations

Grants shall be at least \$10,000 and no more than \$25,000 and Capitalize Albany Corporation generally seeks to provide no more than eighty percent (80%) of the financing for any particular project; furthermore, Capitalize Albany Corporation reserves the right to modify such terms. The amount of funds will be awarded based on the project meeting the basic eligibility requirements, as well as factors such as the size of the project, the demonstrated need, feasibility of the project, and the strategic value of the project.

Track #2 – Existing retail locations

Grants shall be at least \$5,000 and no more than \$15,000 and Capitalize Albany Corporation generally seeks to provide no more than fifty percent (50%) of the financing for any particular project; furthermore, Capitalize Albany Corporation reserves the right to modify such terms. The amount of funds will be awarded based on the project meeting the basic eligibility requirements and additional factors such as the size of the project, the demonstrated need, feasibility of the project, and the strategic value of the project.

PROGRAM GOALS

To further the visions, recommendations and strategies of the Albany 2030 Plan, Capitalize Albany Corporation has

developed the following program goals:

- 1) To enhance existing and attract new businesses that provide a need/desired service within a commercial corridor in order to increase foot traffic and to create a vibrant commercial core
- 2) To strengthen the retail mix in the commercial corridor via variety and complementary stores
- 3) To improve the image of the commercial corridor as a destination for the community, visitors and tourists
- 4) To stimulate private retail investment within the commercial corridor through property improvement, business development, retention and expansion
- 5) To revitalize and improve the appearance of a neighborhood's streetscape by activating vacant properties
- 6) To encourage the creation of low barrier to entry jobs for City of Albany residents, as well as others in the region
- 7) To create induced and indirect economic spinoff including sales tax generation
- 8) To leverage public and private investment in the City of Albany and encourage more to occur

APPLICANT AND PROJECT ELIGIBILITY

To be eligible for this program, the application must be on behalf of a retail business, which is defined as a commercial enterprise that offers merchandise, food, or provides services to the public, the sale of which is subject to sales tax, and from which the revenue derived constitutes the majority of revenue for the business. Eligible businesses must be legal entities, which are registered and licensed (if required) to operate in New York State. Applicants must also be current on all property and/or business taxes prior to award and clear of any permitting or codes violations as a condition of reimbursement. Furthermore, the business must not be identified in the list of ineligible businesses contained in these program guidelines.

Eligible projects must be located in one of the identified commercial corridors within **West Hill, Arbor Hill, North Albany & the South End** which are four of the City's Neighborhood Strategy Areas. The boundaries are approximately defined as follows: West Hill – Lexington Avenue between Washington Avenue and Clinton Avenue; Arbor Hill – N. Swan Street between Clinton Avenue and Livingston Avenue; North Albany – Broadway between Tivoli Street North to the city line; South End – S. Pearl Street between Second Avenue and Madison Avenue. See Appendix A for the map of the boundaries for each of the program's commercial corridors. Eligible applicants must be commercial tenants of property located within the boundaries of the identified districts that possess a long-term lease of at least five years or property owners or jointly property owner and tenant. If the applicant is a lessee, written consent from the property owner giving permission to conduct the improvements will be required.

The program is available to both existing and new retail businesses that currently occupy/are planning to occupy first-floor space with street front presence and access. Businesses currently operating in the City of Albany that plan to relocate existing operations with assistance from this grant program may be ineligible for program assistance subject to the discretion of Capitalize Albany Corporation Staff.

Track #1 - New retail locations

In order to be eligible to apply for Track #1, the business must be a new retail business to the City of Albany or a current business that is expanding operations by adding an additional location in the identified commercial corridors described above. Track #1 projects may be inclusive of both interior and exterior improvement activities.

Track #2 – Existing retail locations

In order to be eligible to apply for Track #2, the business must be an existing retail business located in the identified commercial corridors described above. Track #2 projects will be limited to exterior façade improvement activities.

For both funding tracks, generally, renovation projects must exceed the minimum project costs described above before Capitalize Albany Corporation will consider the project for grant funding. Mixed-use projects improving multiple floors can qualify for funds, provided the ground floor will be used for retail. However, only renovations to the ground floor retail space are eligible as part of the Capitalize Albany Corporation Commercial Corridor Retail Program funding request.

Land use must be in conformity with the applicable zoning regulations. Non-conforming land uses, sites, and structures are eligible for grant funds only if the non-conformities are brought into compliance through the grant award.

Applications must include projected tangible benefits to the commercial district, such as annual sales, number of jobs created, etc. Please see the Scoring System section of these guidelines for additional detail.

Eligible applicants must be able to commit to remain in the location for at least two (2) years and must create or retain for two (2) years during the term of the agreement one (1) or more full-time equivalent jobs. For larger funding requests, additional job creation or retention may be required, at the discretion of Capitalize Albany Corporation.

DESIRED BUSINESSES

The City of Albany strives to nurture a unique retail mix. Retail will compete best if it offers a distinct type of product or experience different from what is available in other commercial corridors or suburban areas in the region. This will help the commercial corridor stand out as a retail destination of interest, while also reinforcing the neighborhood's appeal as a unique place to live and work. To this end, the following types of retail are most appropriate for Albany. The preferred business will create or enhance the economic activity in the area and drive more retail to locate here. The list below is not all inclusive but serves as a guide only. Preference will be given to following types of businesses:

- Soft Goods (Apparel/Shoes/Home Furnishings/Books/Gifts/Novelties)
- Health & wellness stores and pharmacies
- Full service restaurants/venues
- Grocery, Specialty Food Stores/Specialty Food Establishments
- Salons/Spas/Barbershops
- Professional service firms (which serve the public and operate year-round)
- Non-profits that serve the community

INELIGIBLE APPLICANTS – Track #1 “New Businesses”

Ineligible applicants include but are not limited to:

- Dollar/discount stores
- Check cashing stores/currency exchanges/~~banks~~
- Adult entertainment venues
- ~~Single-serving package~~ Liquor stores
- ~~Tattoo parlors~~

- Pre-paid cell phone stores
- Pawn shops
- Bars as a primary use
- Passive real estate ownership and management firms
- Tobacco/vape/glass/hookah shops~~Business-to-business companies~~
- Government agencies
- Seasonal businesses

INELIGIBLE APPLICANTS – Track #2 “Existing Businesses”

Ineligible applicants include but are not limited to:

- Pawn shops
- Adult entertainment venues
- Liquor stores
- Bars as a primary use
- Passive real estate ownership and management firms
- Business-to-business companies not serving the public
- Tobacco/vape/glass/hookah shops
- Government agencies
- Seasonal businesses

Capitalize Albany Corporation reserves the right to deem any business as eligible/ineligible on a case-by-case basis.

~~The City of Albany is~~ committed to eradicating food deserts in the City. ~~For convenience~~Convenience retail stores (as defined by Rezone Albany) applying for funding under this program, ~~you~~ will be required to document and certify that ~~you maintain a significant~~ inventory of fresh produce is maintained for sale currently at the time of application and ~~will~~ commit to do so for the term of the grant. ~~If you are one of the aforementioned entities and you~~As a requirement of the program, convenience retail stores that do not sell fresh produce ~~currently, as a requirement of the program, you at the time of application~~ will need to ~~sign an agreement indicating that you will contract~~produce an agreement with Capital Roots ~~for an equivalent fresh foods provider to be approved by Capitalize Albany Corporation staff~~ in order to ~~provided~~dedicate significant square footage of the store to fresh produce at the assisted business location.

INELIGIBLE PROPERTIES

At the sole discretion of Capitalize Albany Corporation, a building or property may be deemed ineligible for program funds if any of the below criteria are met:

- 1) Structure identified in the application (or the property the building is located on) is owned in whole or in part by the City of Albany, County of Albany, State of New York or Capitalize Albany Corporation or any other related government entity.

Capitalize Albany Corporation will review all applications on a case-by-case basis and reserves the right to exclude other business activities/properties if: the use is not consistent with the City of Albany’s redevelopment and development plans; the use does not benefit the health, safety, and welfare of the community; or the business activity does not meet the objectives of this program. Additionally, Capitalize Albany Corporation has the right to include other business activities/properties, in its sole discretion, if such activities/properties are deemed to be in alignment with the goals and objectives of the program.

QUALIFYING PROJECT EXPENDITURES

Tenant build-out improvements* –

*For Track #2, only the activities below that are a part of exterior façade improvements are eligible.

- Architecture and engineering fees as part of a comprehensive renovation project
- Interior demolition or site preparation costs as part of a comprehensive renovation project
- Permanent building improvements, which are likely to have universal functionality. Items including but not necessarily limited to demising walls, flooring, interior and exterior lighting, electrical, mechanical, and plumbing work for the build-out
- HVAC, fire suppression, costs of bringing building up to current code, including Fire and Life safety codes and/or Americans with Disabilities Act requirements
- Attached fixtures
- Exterior treatments including painting, murals, siding, and bricking
- Repairs, replacement, and installation of exterior doors, windows, and trim
- Structural improvements to the façade
- Lighting improvements
- Removal of elements that cover architectural details
- Restoration of details on historically significant buildings
- Awnings and signage, including installation costs
- Sidewalk cafes, including balconies, decks, and planters

INELIGIBLE PROJECT EXPENDITURES

- Renovating space on a speculative basis to help attract new tenants
- Acquisition of land or building
- Temporary or movable cubicles or partitions to subdivide space
- Inventory, furniture, equipment, moving expenses, and working capital
- Project costs incurred/improvements made prior to grant approval
- Routine building or site maintenance projects
- Non-fixed improvements
- Purchase of a business
- In-kind or donated services
- Non-permanent signage

Applicants will be encouraged during the application process to reuse, rehabilitate or restore historic architectural elements to retain the charm and character of older buildings and incorporate design principles sensitive to neighboring building structures.

APPLICATION PROCESS:

Potential applicants are encouraged to contact Capitalize Albany Corporation to discuss their project and their potential eligibility for the program as well as to ask any questions about the program, how to complete the application process, or to inquire about other programs and incentives available through Capitalize Albany Corporation. Potential applicants are also encouraged to complete the Capitalize Albany Corporation Project Questionnaire, so that staff has an opportunity to provide early feedback on the project. Contact Capitalize Albany Corporation to request a copy of the Project Questionnaire. Completed Project Questionnaires can be submitted to Development@CapitalizeAlbany.com or in person at our office at 21 Lodge Street, Albany, New York 12207.

Applicants must follow the adopted grant application process in order to be considered for a grant award. The full Commercial Corridor Retail Grant Program application (Appendix B) must be completed and submitted to Capitalize Albany Corporation, along with the \$250 application fee in order to be considered for this program.

Minority and women-owned business enterprises (MWBs) are strongly encouraged to apply.

Applications will be accepted on a rolling basis, until available funding is exhausted.

SUBMISSION REQUIREMENTS

All of the following should be submitted, and determined to be sufficient solely by Capitalize Albany Corporation staff, in order for an application to be considered complete:

- \$250 application fee
- Completed application
- Business Plan for the venture including:
 - Concept and target market
 - ✓ Advertising/marketing plan
 - ✓ Summary of management team's skills and experience
 - ✓ Number of job positions created
 - ✓ Detailed cost sheet for tenant space build-out
 - ✓ Funding description for the project, including a three year cash flow pro forma
 - ✓ Proposed timeline for project construction and projected opening date
 - ✓ Floor plan/layout of physical space, including square footage and existing fixtures
 - ✓ Photographs, renderings of proposed improvements to the interior and exterior, including design/layout/"feel" (photos of similar concepts, material samples, etc.)
 - ✓ Plan for merchandising (inventory levels, brands)
- Color photographs of existing conditions (including the building façade)
- If the applicant is a lessee, written consent from property owner giving permission to conduct improvements (Appendix C)
- At least one detailed proposal from a licensed (if required), insured contractor reflecting work to be performed and costs.
- A copy of the property tax bill or deed to confirm ownership of the property
- For lessees, a legally valid and binding lease for a period of at least five (5) years with use restricted to an allowable retail use. The landlord must show a concession to the tenant in the lease.
- Minimum one (1) year corporate and/or three (3) year's personal tax returns (exceptions will be considered)
- Copy of the business owner(s)'s credit report(s) and score(s) (must be dated less than sixty (60) days from application submittal)

Completed Project Questionnaires and full applications must be emailed to Development@CapitalizeAlbany.com or in person at our office at 21 Lodge Street, Albany, New York 12207.

Applicants will be notified of any missing items in the application and will be provided thirty (30) days to submit the remaining documentation. If missing documentation is not received within thirty (30) days of Capitalize Albany Corporation's notice to the applicant, the application may be deemed ineligible and not subject to further consideration under this program.

REVIEW PROCESS

Grant applications will not be evaluated until all of the requested information is included and approved by Capitalize Albany Corporation staff. All eligible, completed applications will be evaluated on a case-by-case basis by Capitalize Albany Corporation staff (as described below under "Scoring System and Scoring Process").

Capitalize Albany Corporation will - review applications on a monthly basis, unless no applications have been submitted. The applicant must discuss (in person) with Capitalize Albany Corporation staff the project concept, business plan and funding arrangement and articulate how the project meets the objective of the program. Capitalize Albany Corporation is looking for projects that will have a major impact on the selected neighborhood's retail environment.

Capitalize Albany Corporation reserves the right to reject any project. Throughout the review process, Capitalize Albany Corporation staff will have the right to request more information, or to request specific design or operating changes. Capitalize Albany Corporation also reserves the right to recommend funding at a lesser amount than what is requested by the applicant based on project size, budget, priority of retail use, as well as funding availability. Capitalize Albany Corporation will award funds on a competitive, first-come, first-served basis until available funding is exhausted.

Among other criteria, the Corporation will analyze the investment level, strategic value and overall project impact of each proposed project. A building/parcel with an active Commercial Corridor Retail Grant Program application and/or award or other Capitalize Albany Corporation grant will be subject to additional review. Additionally, a building/parcel/applicant requesting more than one (1) grant in the same 12 month period will be subject to additional review.

SCORING SYSTEM

All applications will be scored on both the feasibility as well as the demonstrated strategic value of the project. The feasibility of the business and proposed project will serve as a threshold eligibility standard. A successful application will be the one that conveys the most promising combination of financial feasibility, product and market research, growth potential job creation, and financial need. Financial need or gap analysis must be included in the business plan and/or application.

The below scoring system is intended to be a guiding tool for Capitalize Albany Corporation staff:

0-25 Points – Feasibility Review (see point breakdown below):

0 – 5 Points	Application shows good short term profit potential and contains realistic financial projections
0 – 5 Points	Application shows how the business will target a clearly defined market and its competitive edge
0 – 5 Points	Application shows that the management team has the skills and experience to make the business successful
0 – 5 Points	Application shows that the entrepreneur will make a personal (equity) investment in the business venture
0 – 5 Points	Number of job positions created or retained in excess of the required one (1) full-time equivalent position

The maximum number of points for the Feasibility Review is twenty-five (25) points. An application must score a minimum of fifteen (15) points in order to progress to the Strategic Value Review. Following a successful evaluation under the Feasibility Review, the project will be subject to a Strategic Value Review, as supported by the Impact Downtown strategy.

0-25 Points – Strategic Value Review (see point breakdown below):

0-5 Points	Expansion of the local property tax base by stimulating new investment in older commercial properties
0-5 Points	Expansion of the state and local sales tax base by increasing sales for new or existing shops
0-5 Points	Uniqueness in the retail marketplace/right concept in the right location

0-5 Points	Brand recognition/ability to attract customers and other retailers to the area
0-5 Points	Expressive retail storefront design/high quality interior design

The maximum number of points for the Strategic Value Review of the project is twenty-five (25) points.

5 Bonus Points – Track #1 applicants will qualify for additional automatic points if the concept is an existing regional chain-let or regional business, or the business owner is a City of Albany resident. Track #2 applicants are not eligible for these points.

Up to 5 Bonus Points – Track #1 applicants will qualify for additional points based on the percentage of projected employees that are anticipated to be City of Albany residents. Track #2 will qualify for additional points based on the percentage of employees that are City of Albany residents.

The maximum number of points for review of the application is fifty (50) points, with the opportunity to reach sixty (60) points with all bonus points.

SCORING PROCESS

I. FEASIBILITY REVIEW. Once the application is determined by Capitalize Albany Corporation staff to be complete, Capitalize Albany Corporation staff will complete the Feasibility Review. A minimum score of fifteen (15) points (out of a possible twenty-five (25) points) is required in order for the proposed project to continue to be considered for funding.

II. STRATEGIC VALUE REVIEW. Capitalize Albany Corporation staff will then score all feasibility-qualified projects (those projects which achieve at least fifteen (15) points during the Feasibility Review Process) based on their demonstrated strategic value (using the same criteria/scoring described above in the Strategic Value Review table) following the applicant’s presentation to Capitalize Albany Corporation. -Special consideration will be given to ensuring geographic equity when awarding projects.

III. Applicants are highly encouraged to utilize local businesses and labor during the project’s construction period. Applicants will be provided with the Albany Community Development Agency’s list of pre-approved bidders and the City of Albany’s list of MWBE contractors to assist in the applicant’s search for skilled labor. While exclusive use of these firms is not required by the program, use of qualified firms that uphold the highest standards of employee care, insurance and local hiring is strongly preferred.

For applicants under Track #1, a minimum total score of forty (40) must be obtained in order to be eligible to receive a recommendation for award from Capitalize Albany Corporation. For applicants under Track #2, a minimum total score of thirty (30) must be obtained in order to be eligible to receive a recommendation for award from Capitalize Albany Corporation. Please note: if a project under Track #1 receives forty (40) points or higher or a project under Track #2 receives thirty (30) points or higher, it does not guarantee that the project will receive funding. These are minimum thresholds to be considered for award and do not bind Capitalize Albany Corporation to make any award.

Throughout the program, the proportion of projects awarded under each funding track and within each specific commercial corridor will be continually evaluated. This may have an effect on award recommendations, but will be done to ensure that the limited program funds achieve the greatest impact.

Following the completion of the scoring process, if Capitalize Albany Corporation determines that the project should move forward, a grant award will be approved. Capitalize Albany Corporation staff has the final authority to approve or deny the project application. In addition, the amount of the grant is determined in the sole and absolute discretion of Capitalize Albany Corporation. Notification of grant funding approval or denial will be sent to the applicant by Capitalize Albany Corporation staff.

UPON APPROVAL

Upon award, applicants will be required to execute a grant agreement and other security documents, as determined by Capitalize Albany Corporation in its discretion, including but not limited to some or all of the following: a promissory note (forgivable on meeting all grant requirements), personal guaranty for the note (if the applicant is an entity), mortgage (subordinated to certain other mortgages in Capitalize Albany Corporation's discretion), and lien filings. Included within the grant agreement/security documents will be commercially reasonable indemnification/insurance obligations on the part of any applicant awarded funds intended to protect Capitalize Albany Corporation from any potential liability related in any manner to this grant.

Prior to execution of the grant agreement and other security documents, the grantee must submit the following to Capitalize Albany Corporation:

- Architectural drawings and/or renderings of the improvements, reflecting placement, materials and colors to be used
- Documentation of commitment of funds for the project construction (commitment letter(s))
- Up to three (3) detailed proposals from licensed (if required), insured contractors reflecting work to be performed and costs. Any contractor that has submitted a competitive, detailed estimate can be used. Contractors cannot be changed during construction unless new proposals have been submitted to Capitalize Albany Corporation.
- Documentation of approval by the City's Planning Board, Department of Buildings & Regulatory Compliance and the City of Albany's Historic Resources Commission when applicable.

Capitalize Albany Corporation, in its sole discretion, has the right to require additional documentation prior to execution of the grant agreement.

The grants shall be recoverable and amortized over a period of two (2) years. Upon opening, the principal amount of the grant will diminish by ten (10) percent and shall diminish by forty-five (45) percent each year thereafter for a period of two (2) years. Grantee must commit to remain in the location for at least two (2) years and must create or retain for two (2) years during the term of the agreement one (1) or more full-time equivalent jobs. For a larger request, additional job creation may be required, at the discretion of Capitalize Albany Corporation. If the grantee does not default on the grant terms during the required two (2) year period, the grant will be closed. Failure to abide by the grant terms and conditions may result in (i) forfeiture of any grant funding awarded to applicant; and/or (ii) applicant repaying/returning

to Capitalize Albany Corporation any grant funds awarded which had been already provided to the applicant (up to the full amount of grant funds).

All rehabilitation work and design features must comply with all applicable city codes and ordinances, as well as state and federal law. All applicable permits and licenses must be obtained, including all permits and Certificates of Occupancy required by the City of Albany and all other state and local permits. In addition, work must follow plans and specifications as approved by Capitalize Albany Corporation.

After approval, any changes to the project, no matter how minimal, must be approved by Capitalize Albany Corporation. Contractors cannot be changed during construction unless new proposals have been submitted to Capitalize Albany Corporation. Grant recipients must work closely with Capitalize Albany Corporation staff to communicate the project progress and resolve any issues or questions. Upon completion, all work must pass applicable state and/or local inspections. Capitalize Albany Corporation reserves the right to conduct site visits and should anything be discovered that is not consistent with the approved application, Capitalize Albany Corporation has the right to withhold the grant award, recapture any and all grant funds, or take any other available remedy to maintain compliance with these program guidelines.

Once the grant is approved, the applicant has six (6) months to begin construction. If the work does not begin within the six (6) month period, the applicant will be notified in writing that the grant may lapse and the agreement will be terminated with no grant funds awarded or available to the applicant. Once construction has started, the applicant has one year to complete the project and open for business. If the business has not opened at the end of the one (1) year period, the applicant will be notified in writing that the grant may lapse and the agreement will be terminated with no grant funds awarded or available to the applicant. If an approved project is nearing the six (6) month or one (1) year lapse point, an opportunity will be provided for the applicant to request an extension. An extension may be granted at the discretion of Capitalize Albany Corporation depending on the project's circumstances and the future needs of the program. If an approved grant does lapse and is terminated, the applicant may reapply on a first-come, first-served competitive basis. There is no guarantee that a resubmission will be approved, and the project will be re-evaluated based upon the established criteria detailed above. Any expenditure incurred for projects approved but not completed will not be reimbursed.

The applicant may be subject to repayment of all grant funds to Capitalize Albany Corporation if the physical improvements paid for by this program do not remain in place for an agreed upon minimum period of time, if the concept changes without permission of Capitalize Albany Corporation or the business closes prior to the end of the agreed upon term.

RELEASE OF FUNDS

Generally, grant funds will not be disbursed as a cash advance prior to project costs being incurred and the project completed/business open and operating. The program will offer grants on a reimbursement basis only. Funds are disbursed only after the project is completed, and a disbursement request with paid receipts and/or invoices, cancelled checks, and/or certified checks for eligible project costs are submitted and approved by Capitalize Albany Corporation, and the establishment has received their Certificate of Occupancy from the City of Albany, is open for business, and has met all requirements in the contractual agreement. Generally, the full (100%) grant will be provided to the grantee in a single payment. All closing costs (e.g., Capitalize Albany Corporation attorney fees, recording fees and/or filing fees) may be deducted from the grant amount awarded.

Eligible receipts and invoices must, at a minimum, include the invoice date, scope of work, contractor name and contact information, cost, and be marked as paid/ a zero balance indicated or other proof of payment supplied. The invoices must clearly indicate the nature of the expense and that such expense is related to the approved project and business. Capitalize Albany

Corporation will only be obligated to reimburse applicants for which eligible, reimbursement requests are received within six (6) months following the receipt of the Certificate of Occupancy.

If eligible project costs are less than the original grant approval, Capitalize Albany Corporation has the right to reduce grant awards. Awards may be pro-rated down accordingly.

At the Corporation's discretion, upon disbursement of funds, the grantee must first pay down any outstanding debt related to the project. Proof of such payment may be required.

ADDITIONAL PROGRAM REQUIREMENTS

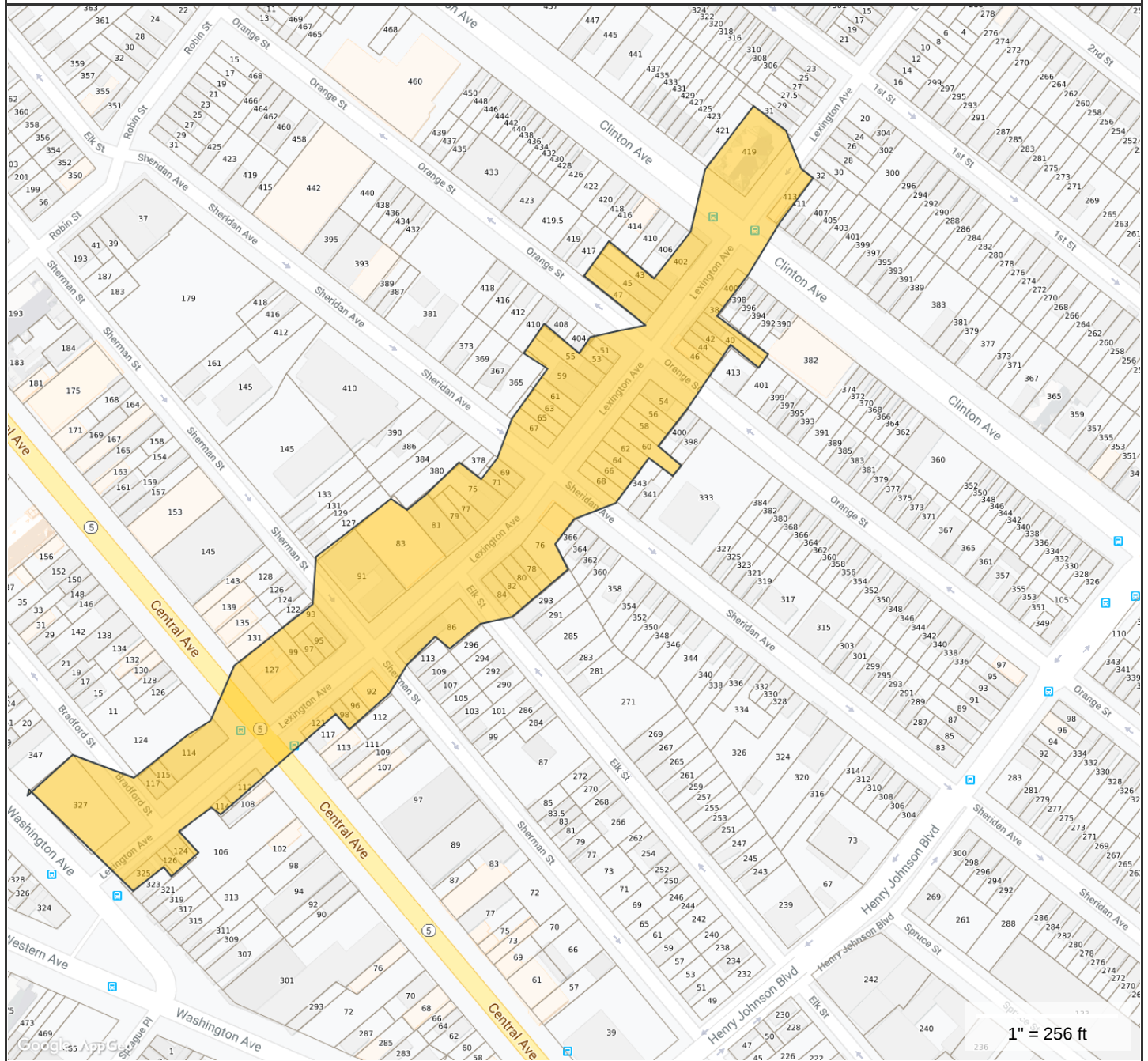
- Businesses receiving grants from this program shall be required to be open and operating for a minimum of forty (40) hours per week.
- Any grantee hereby agrees to indemnify, defend and hold harmless Capitalize Albany Corporation and its officers, directors, employees, and agents (collectively, the "Capitalize Albany Corporation Parties") from any claims, damages, losses and expenses, including but not limited to attorneys' fees, asserted against Capitalize Albany Corporation Parties related in any way to a project.
- The grantee will be required to give to Capitalize Albany Corporation, the unrestricted right to use, for any lawful purpose, any photographs or video footage taken of the property at the approved project location for which the grantee has the authority to grant such permission, and to use the grantee's name in connection therewith if it so chooses.
- The grantee will further be required to notify Capitalize Albany Corporation of any public announcements or events to be held at or in relation to the inception or opening of the approved project location, and Capitalize Albany Corporation will have the right to participate in and/or publicize the event in coordination with the grantee, if Capitalize Albany Corporation so chooses.
- The grantee will be required to include the Capitalize Albany Corporation logo, the Capital Resource Corporation (CRC) logo, and any other logos Capitalize Albany Corporation deems appropriate on all print collateral related to the project.
- The grantee will consent to display signage at the project location indicating participation in the Commercial Corridor Retail Grant Program (Capitalize Albany Corporation to provide sign specifications).
- Only one grant shall be awarded per business for each physical location and/or expansion project. Funding is not transferable.

Appendix A

Commercial Corridor Retail Grant Program Eligible Areas

DRAFT

West Hill - Lexington Ave Commercial Corridor



**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

City of Albany, New York makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

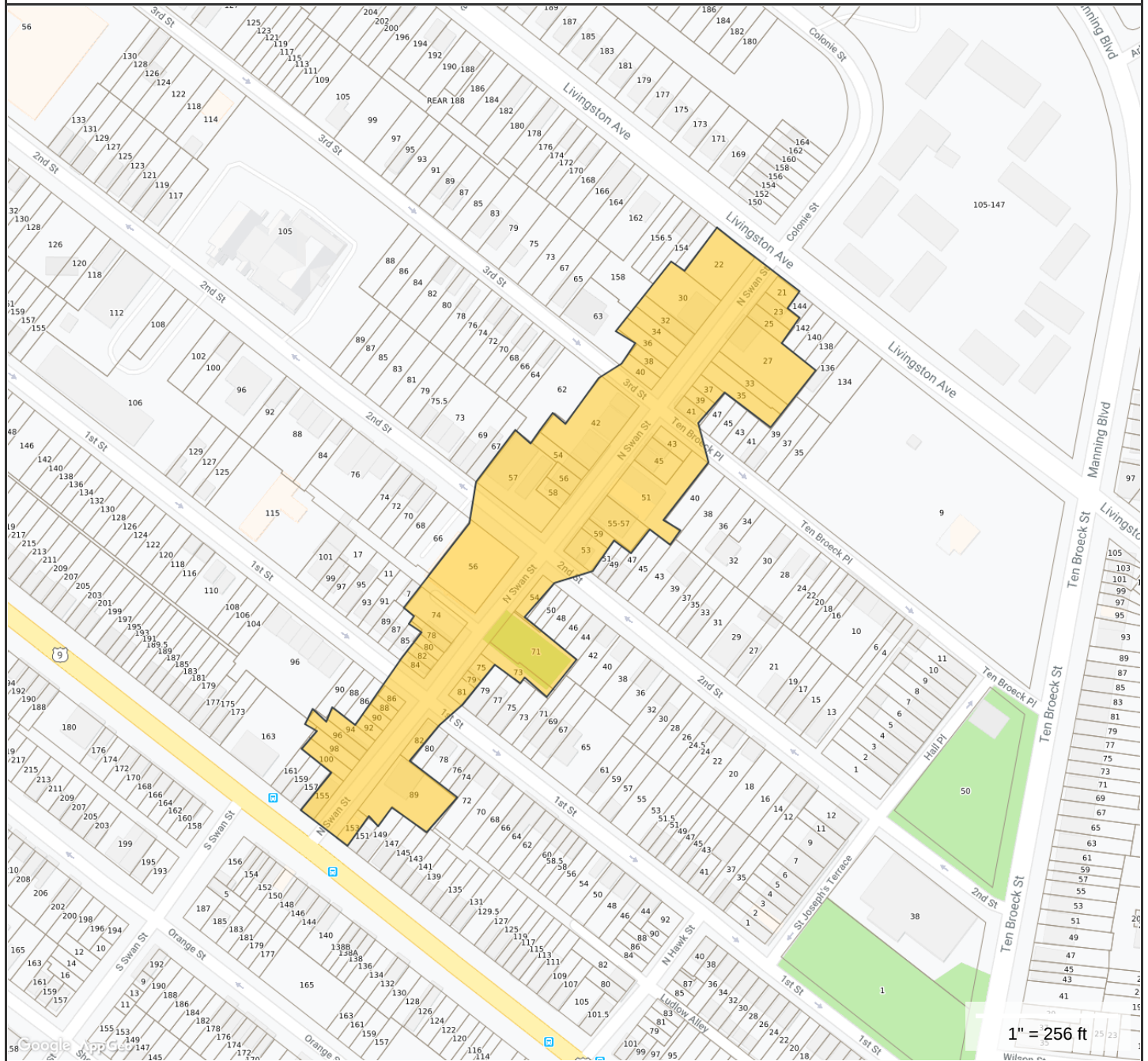
West Hill - Lexington Ave Commercial Corridor



MAP FOR REFERENCE ONLY NOT A LEGAL DOCUMENT

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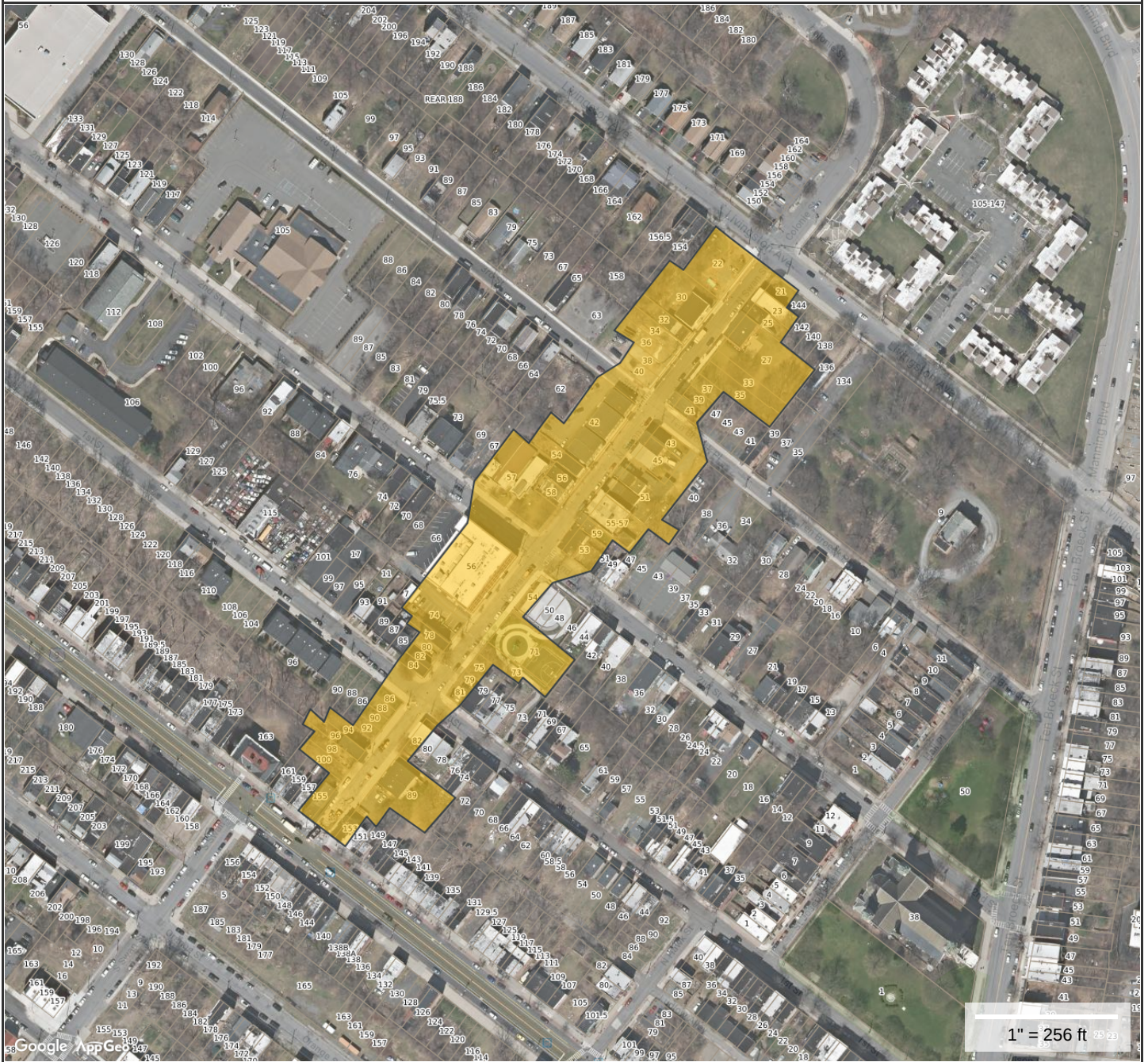
Arbor Hill - North Swan St. Commercial Corridor



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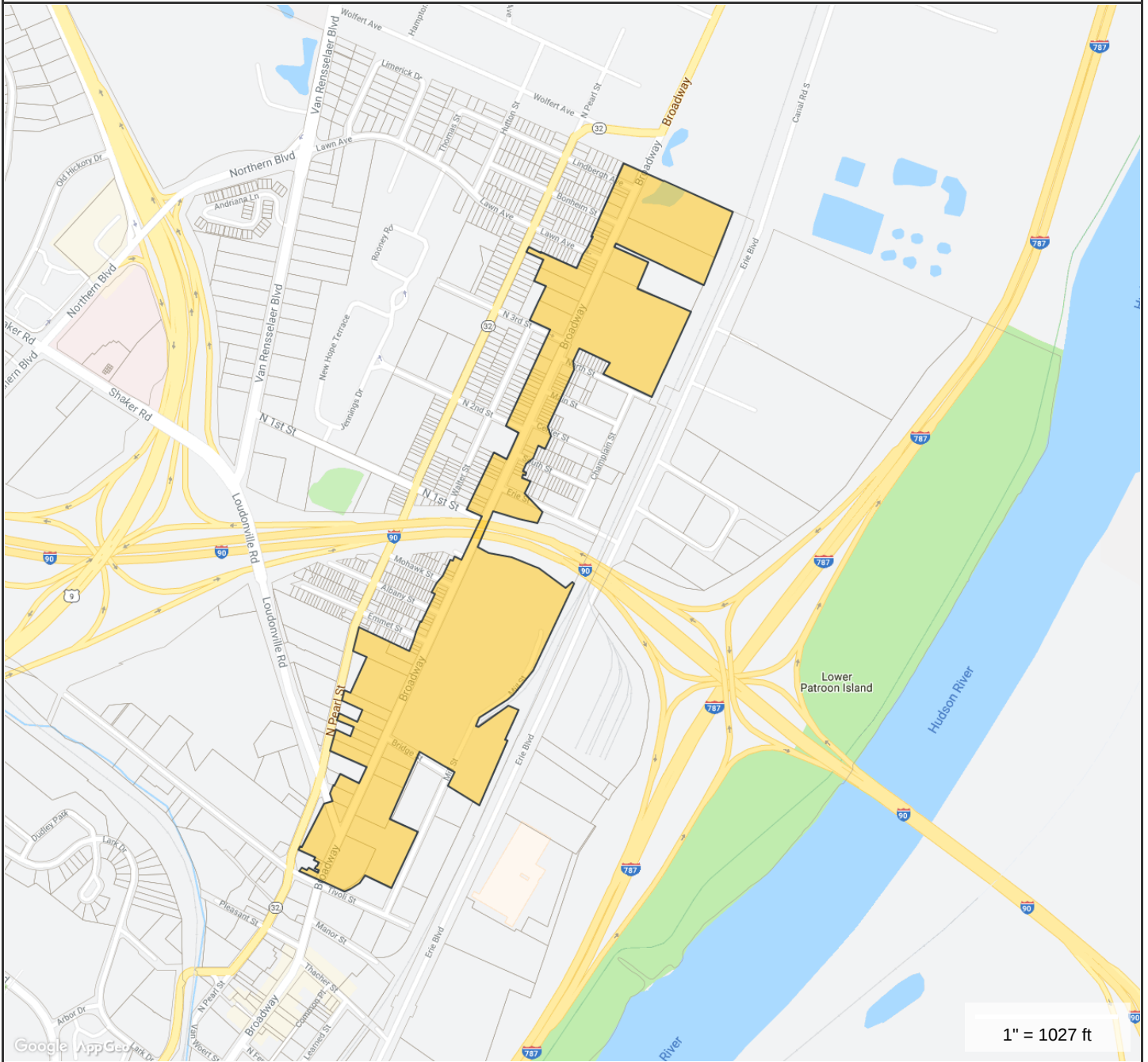
Arbor Hill - North Swan St. Commercial Corridor



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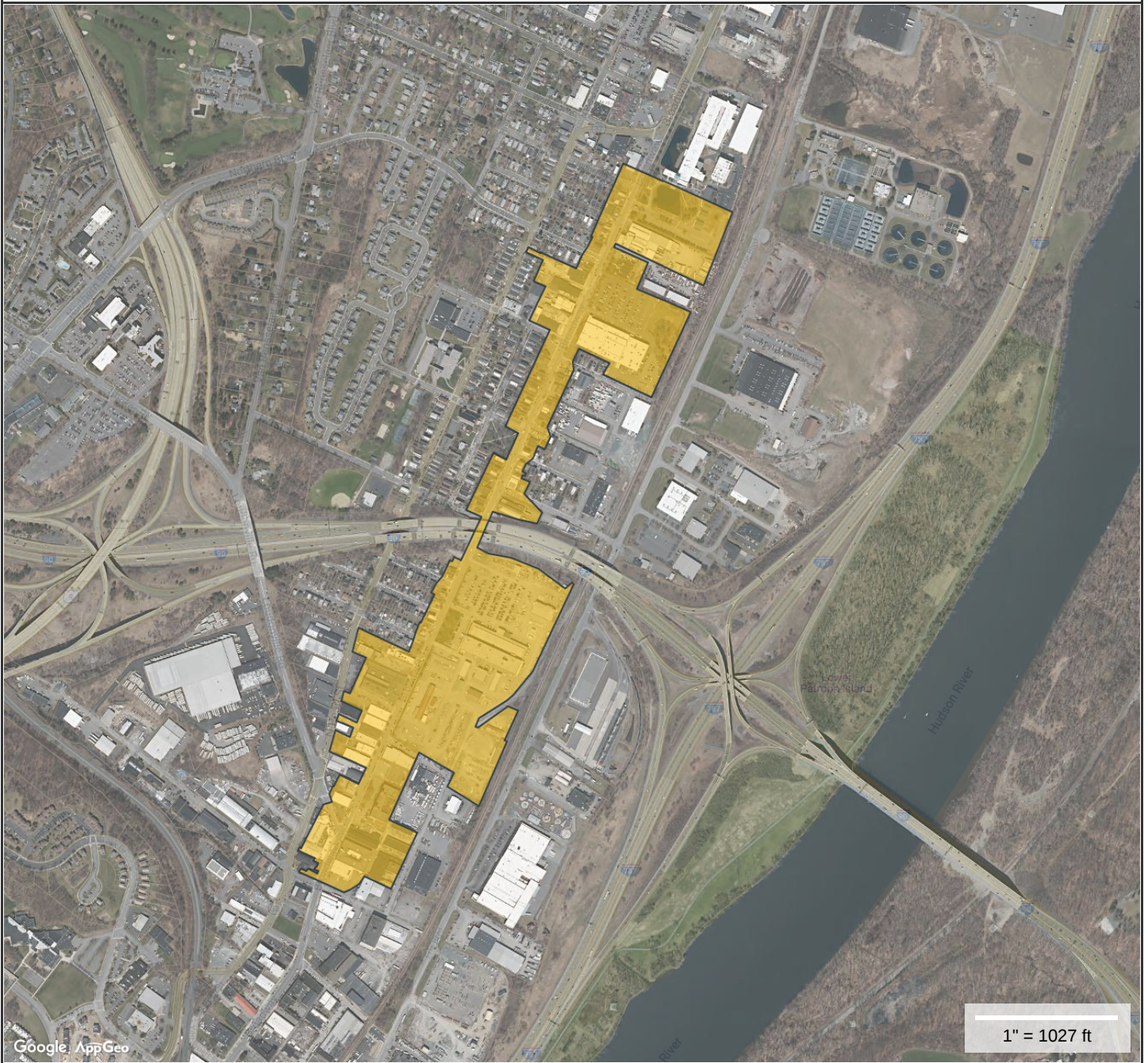
North Albany - North Broadway Commercial Corridor



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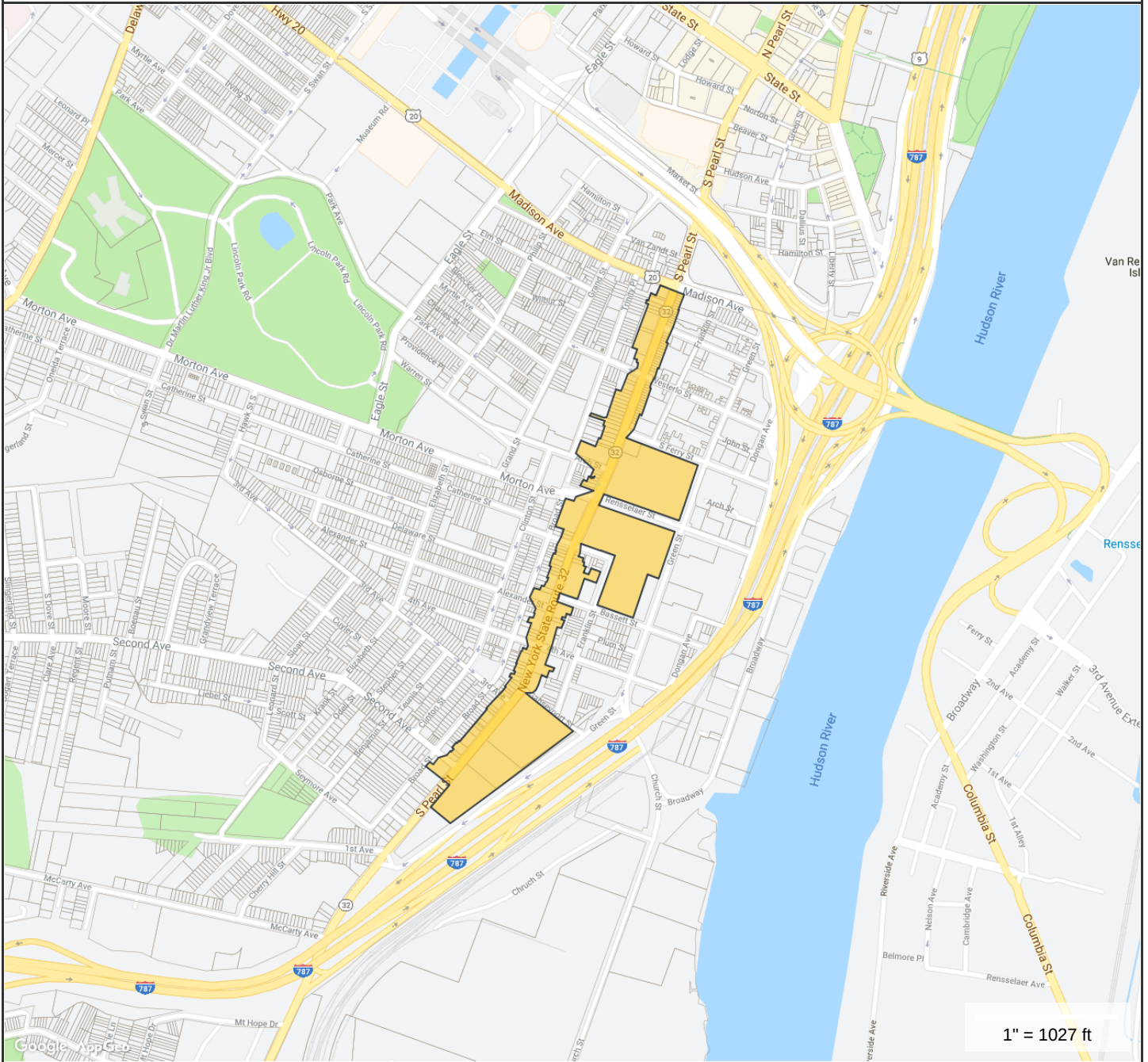
North Albany - North Broadway Commercial Corridor



**MAP FOR REFERENCE ONLY
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South End - South Pearl St. Commercial Corridor



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South End - South Pearl St. Commercial Corridor



**MAP FOR REFERENCE ONLY
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DRAFT FOR DISCUSSION PURPOSES ONLY

PROFESSIONAL SERVICES AGREEMENT

Between

CITY OF ALBANY

and

CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY

and

CITY OF ALBANY CAPITAL RESOURCE CORPORATION

This professional services agreement, made this ___ day of January, 2020 (the “Agreement”) between the CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 21 Lodge Street, Albany, New York (hereinafter referred to as the “Agency”), the CITY OF ALBANY CAPITAL RESOURCE CORPORATION a not-for-profit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 21 Lodge Street, Albany, New York (hereinafter referred to as the “Corporation”), and the CITY OF ALBANY, having its principal office at City Hall, Eagle Street, Albany, New York (hereinafter referred to as the “City”):

WITNESSETH:

WHEREAS, the Agency and the Corporation need general counsel services in connection with their operations;

WHEREAS, the City through its office of the Corporation Counsel has offered to provide such general legal services to the Agency and the Corporation; and

WHEREAS, the Agency, the Corporation and the City desire to enter into this Agreement to formally provide for the terms of the general counsel services to be provided to the Agency and the Corporation.

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY COVENANT AND AGREE AS FOLLOWS:

ARTICLE 1 -SERVICES TO BE PERFORMED

The office of the Corporation Counsel (the “General Counsel”) shall perform the general legal services set forth under Article 2 entitled “SCOPE OF PROFESSIONAL SERVICES” during the period commencing on January 1, 2020 and continuing until December 31, 2020. In the performance and acceptance of the services herein, the parties understand, acknowledge, and agree that the General Counsel is assuming no managerial role, nor undertaking any oversight responsibilities with regard to the powers and duties of the Agency or the Corporation or the actions or non-actions of its members and board of directors. Nothing in this Agreement should be construed to transfer governance, oversight, or fiduciary responsibilities from the Agency or the Corporation to General Counsel.

ARTICLE 2 - SCOPE OF PROFESSIONAL SERVICES

During the period of this Agreement, the General Counsel agrees to provide general legal services for the Agency and Corporation, including but not limited to the following:

1. attendance at meetings of the Agency and the Corporation;
2. representing the Agency and the Corporation on general litigation matters;
3. provision of local counsel opinions on Agency and Corporation projects and financings;
4. provision of general counsel advice, including rendering opinions on Open Meetings Law, Freedom of Information Law, General Municipal Law – Conflicts issues; and
5. conference with and assistance to the Agency and Corporation finance team, including bond counsel on Agency and Corporation matters.

ARTICLE 3 - PROFESSIONAL SERVICES FEE

In consideration of the terms and conditions of this Agreement, the Agency and the Corporation agree to pay and the City agrees to accept, as full compensation for all services rendered under this Agreement an amount equal to \$42,000 per year. The General Counsel shall provide professional staff time towards fulfillment of this Agreement, including all administrative clerical, secretarial, accounting, compliance, and information technology support as required.

ARTICLE 4 - METHOD OF PAYMENT

The Agency and the Corporation will pay the City the professional services fee referenced under Article 3 of this Agreement in a single installment due and payable no later than December 31, 2020.

ARTICLE 5 – TERMINATION

This Agreement may be terminated at any time by any party upon thirty (30) days prior written notice. In the event of termination, General Counsel shall be entitled to compensation for all work performed pursuant to this Agreement to the date of termination.

ARTICLE 6 - EQUAL EMPLOYMENT OPPORTUNITY

General Counsel shall comply with all Federal, State, and Local equal employment opportunity laws, rules, and regulations relating, to all matters contained in this Agreement.

ARTICLE 7 - ACCOUNTING RECORDS

General Counsel shall make all reasonable efforts to keep accurate and systematic accounts and records with respect to the services provided pursuant to this Agreement. The aforementioned records shall be made available for inspection or audit by the Agency if required. General Counsel shall not be required to maintain or submit itemized hourly records with respect to the services rendered. All records produced to the Agency pursuant to this Agreement shall be kept confidential and their contents shall not be disclosed by anyone in violation of the attorney-client privilege.

ARTICLE 8 –ASSIGNING AGREEMENT

The General Counsel shall not assign or transfer this Agreement or any interest herein without first receiving written approval of the Agency and the Corporation.

ARTICLE 9 – OWNERSHIP OF WORK PRODUCT

All final and written or tangible products completed by the General Counsel shall belong to the Agency and the Corporation. In the event of premature discontinuance of performance, the General Counsel agrees to deliver all existing products and data files to the Agency and the Corporation.

ARTICLE 10 - SURETY AND INSURANCE

The City will defend and indemnify the Agency for all claims, demands and causes of action arising out of the provision of legal services contemplated by this Agreement by General Counsel, agents or employees of the City.

ARTICLE 11 – ARBITRATION

In any event and notwithstanding any provisions made in the Agreement, the parties hereto will submit to arbitration any question or dispute arising between said parties as to the interpretation of any term or condition herein contained or with respect to any matter of compliance or non-compliance with the terms hereof, in accordance with and pursuant to Article 75 of the Civil practice Law and Rules of the State of New York.

ARTICLE 12 - EXTRA WORK

It is understood and agreed between the parties hereto that no claim for damages or extra work shall be made in connection with this Agreement except such as may be ordered in writing and further evidenced by the execution of a supplemental Agreement between the Agency and Corporation and the City.

ARTICLE 13 – AMENDMENT

Each and every provision of law and clause required to be inserted in this Agreement shall be deemed to have been inserted herein and, if through mistake or otherwise, such provision is not inserted then, upon the application of either party, this Agreement shall be amended forthwith to make such insertion.

ARTICLE 14 - SUCCESSORS AND ASSIGNS

All of the terms, covenants, and Agreements herein contained shall be binding upon and shall inure to the benefit of successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

**CITY OF ALBANY INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Chair

**CITY OF ALBANY CAPITAL RESOURCE
CORPORATION**

By: _____
Chair

CITY OF ALBANY

By: _____
William G. Kelly, Jr.

DRAFT FOR DISCUSSION PURPOSES ONLY

January __, 2020

City of Albany Capital Resource Corporation
21 Lodge Street
Albany, New York 12207
Attention: Tracy L. Metzger, Chair

Re: City of Albany Capital Resource Corporation
Legal Services – 2020

Dear Chair Metzger:

We are very pleased that the City of Albany Capital Resource Corporation (the “Corporation”) has requested us (the “Firm”) to perform certain legal services for the Corporation as Bond Counsel to the Corporation. The scope of the work you have asked us to undertake is briefly described on Schedules A and B attached to this letter. A description of our policy with respect to certain administrative matters, including attorney representation conflicts and client communications is attached as Schedule D to this letter.

For each type of work described on a schedule attached hereto, we propose to bill for such work in the manner described on the respective schedule relating thereto. If such bill is sent to a party other than the Corporation, a courtesy copy of such bill will be sent to the Corporation upon request.

In connection with performing legal services, we will typically incur expenses, such as photocopying, shipping of documents, travel, long distance telephone calls and filing fees. Such expenses are not included as part of our fee for professional legal services, and periodic statements showing the amount of such disbursements will be rendered to the party responsible for paying for the legal services to which such expenses relate. Such out-of-pocket expenses are not included as part of our fee for professional legal services, and periodic statements showing the amount of such disbursements will be made available for review by the Applicant and/or the Corporation upon request. For your information, we have attached hereto as Schedule C our policy with respect to the recovery of client disbursements. If such bill is sent to a party other than the Corporation, a courtesy copy of such bill will be sent to the Corporation upon request.

In the unlikely event that a dispute arises between us relating to our fees, you may have the right to arbitration of the dispute pursuant to Part 137 of the Rules of the Chief Administrator of the Courts, a copy of which will be provided to you upon request.

This agreement to provide legal services may be terminated by either party upon thirty (30) days prior written notice. Further, the Firm reserves the right to vary the services offered to the Corporation from those illustrated above upon sixty (60) days prior written notice to the Corporation.

Tracy L. Metzger, Chair
January __, 2020
Page 2

Please acknowledge your agreement to the above by signing and returning a copy of this letter for our records.

We appreciate the opportunity to represent you.

Very truly yours,

HODGSON RUSS LLP

By: _____
A. Joseph Scott, III

Agreed and Accepted as of this
___ day of January, 2020

CITY OF ALBANY
CAPITAL RESOURCE CORPORATION

By: _____
Chair

SCHEDULE A

Applicant Projects

Services as Bond Counsel

Where an applicant (the “Applicant”) requests that the Corporation undertake a particular project (an “Applicant Project”) and such Applicant Project will be financed out of proceeds of taxable or tax-exempt revenue bonds issued by the Corporation (each separate issue of bonds being sometimes hereinafter referred to as the “Bonds”), we would anticipate acting as bond counsel to the Corporation with respect to said transaction. We understand that the Corporation has retained William G. Kelly, Jr., Esq., the Corporation Counsel of the City of Albany, as local counsel or Corporation Counsel. We further understand that the Corporation would retain the option of using other law firms as Bond Counsel to the Corporation where our firm has a legal conflict, or where there are special circumstances. In our capacity as Bond Counsel to the Corporation, we would work with Mr. Kelly on Applicant Projects.

As a matter of custom and prudence, both the issuers and purchasers of taxable and tax-exempt Bonds require an opinion of nationally recognized bond counsel. Such opinion ordinarily states that (1) the Bonds have been properly authorized and issued and are legal, valid and binding obligations of the Corporation, (2) the legal documentation effectively provides the intended security for the Bonds, (3) interest on the Bonds is exempt from personal income taxes imposed by the State of New York (if the interest on the Bonds is excludable from gross income for federal income tax purposes), and (4), if the Bonds are intended to be issued as federally tax-exempt obligations, interest on the Bonds is excludable from gross income for federal income tax purposes. We anticipate rendering such opinions in connection with the issuance of each issue of the Bonds issued by the Corporation during the period of our engagement.

In order to establish the factual basis for the legal conclusions expressed in such opinion, we will prepare a record of proceedings (or transcript) for each issue of Bonds, which transcript will contain all documents and other materials necessary to assure that the form and substance of the transaction conform with the applicable requirements of the Internal Revenue Code of 1986, as amended (the “Code”), the New York Not-For-Profit Corporation Law (the “Act”) and other applicable New York laws. The record of proceedings for each such transaction will typically include the following, as appropriate: (A) a copy of the application made by the Applicant to the Corporation with respect to the particular project (the “Applicant Project”), together with documents relating to the Corporation’s actions accepting said application, holding a public hearing with respect thereto, and obtaining any required approvals with respect to the Applicant Project from the governing board or “chief elected official” of the municipality for whose benefit the Corporation was created; (B) a loan agreement, whereby (1) the Corporation agrees to loan the proceeds of the Bonds to the Applicant, and (3) the Corporation agrees to repay the loan; (C), if the transaction includes multiple holders of the Bonds, a trust indenture between the Corporation and a corporate trustee acting as representative of the owners of the Bonds; (D), if required by the purchasers of the Bonds, a mortgage and/or security agreement from the Corporation and the Applicant to the trustee (or the owner of the Bonds); (E) a guaranty of the Bonds from the Applicant to the trustee (or the owner of the Bonds); (F) various other security documents; (G), if the Bonds are intended to be issued as federally tax-exempt bonds, various tax compliance documents; (H) a bond purchase agreement among the Corporation, the Applicant and the initial purchaser of the Bonds; and (I), if the Bonds are intended to

be offered to multiple potential purchasers, various bond offering documents (including a preliminary and a final official statement or private placement memorandum relating to the Bonds). As Bond Counsel, we typically draft all of such documents (excepting the bond offering documents, which are typically drafted by counsel to the initial purchaser of the Bonds, with input from us), as well as other documents which are customary and appropriate in such transactions. In addition, we assume responsibility for certain administrative matters, such as coordinating meetings, preparing bond forms, making arrangements for the closing and coordinating with counsel to the other parties to the transaction.

We typically assume no responsibility for any disclosure which may be required under state or federal securities law in connection with the issuance and sale of the Bonds (excepting only the description of the Bonds and the bond documents appearing in the bond offering documents) or for the accuracy, completeness or fairness of statements, representations, information or financial data supplied by the Applicant, or any of its affiliates.

Where we represent a capital resource corporation on a regular basis, we typically provide certain pre-application services at no cost to the Corporation (or the applicant) unless an application is subsequently filed with the Corporation and the transaction subsequently moves beyond the inducement phase. Such pre-application services include providing advice to Corporation staff as to whether a proposed transaction meets the requirements of the Act and the Corporation's Certificate of Incorporation; attendance at pre-application meetings with prospective applicants whenever requested by Corporation staff; and attendance at seminars and other marketing events organized by Corporation staff.

Upon receipt from the Corporation of an application and accompanying documentation relating to a particular project, we review the application to ascertain conformity of the proposed project with applicable state and federal laws affecting the Corporation; prepare an opinion letter to the Corporation regarding the legality of the proposed project; assuming said project appears legal, prepare the necessary documentation allowing the Corporation to indicate preliminary acceptance of said application and allowing the Corporation to conduct a public hearing relating to the transaction; assist the Corporation in complying with the requirements of the New York State Environmental Conservation Law applicable to said application; and, if the Corporation determines to reject an application, advise the Corporation on how best to accomplish said rejection. We typically request that our capital resource corporation clients include as part of their application an indemnity agreement, whereby the Applicant agrees to pay all legal expenses incurred by the Corporation, whether the transaction closes or not. Notwithstanding said indemnity agreement, we typically do not seek payment from either the Applicant or the Corporation if the transaction does not proceed beyond the final inducement resolution.

Once the Corporation has adopted a final inducement resolution with respect to the Applicant Project (and, if the transaction includes Bonds, we have received a draft commitment letter from the initial purchaser of the Bonds), we will prepare a first draft of the basic documents relating to the transaction. Upon receipt of comments from the relevant parties, we will finalize the basic documents and distribute drafts of the various supplemental documents to be delivered at closing for approval of the various parties. If the transaction includes Bonds and the Bonds are intended to be reoffered to multiple parties, once the documents are in good order, (A) the initial purchaser will circulate the preliminary official statement or preliminary private placement memorandum to judge market interest in the Bonds, (B) once the preliminary official statement or preliminary private placement memorandum has been circulated, the initial purchaser of the Bonds will "price" the Bonds (i.e., set the interest rates and other

business terms of the Bonds), and (C), if the Applicant accepts the pricing on the Bonds, the various parties would then enter into the bond purchase agreement and the other documents relating to the sale of the Bonds, and the sale of the Bonds will be consummated.

Upon closing and delivery of our opinion, our responsibilities as Bond Counsel will be concluded with respect to the transaction; specifically, but without implied limitation, we do not undertake (unless separately engaged) to provide continuing advice to the Corporation or any other party relating to the transaction.

Once an application is filed with the Corporation, if the Applicant requests that we begin drafting the basic documents for the transaction and for any reason thereafter the transaction does not close, we typically bill the Applicant for our legal fees on an hourly basis, based on our standard hourly billing rates, as well as our disbursements incurred in connection therewith.

With respect to taxable and/or tax-exempt bond transactions, once the structure of said transaction is decided upon, based on our understanding of the proposed structure of the transaction, the anticipated timing of the closing, our normal hourly rates and our educated guess as to the amount of time it will take us to conclude a particular transaction, we will discuss with the Corporation and/or furnish to the Applicant an estimate of our anticipated fees for such transaction. For certain transactions where the amount of required legal services which are predictable, we will if requested furnish a fixed fee for such transaction. Our fees as bond counsel are generally in the range of \$15,000-\$95,000, plus disbursements, again, depending on the size, type, timetable and complexity of the bond financing.

Our statement for services for an applicant transaction will be rendered at closing. If the structure of the transaction changes significantly, or the closing of the transaction occurs beyond a reasonable period (6 months for a bond transaction), and such restructuring or delay results in an increase in the time that we must expend on the transaction, we reserve the right to renegotiate any fixed fee. Any fee estimate is based upon the foregoing assumptions and further assumes that there will be no extraordinary questions of law, that the structure of the transaction does not change significantly once the initial draft of the basic documents are prepared and that we will not need to prepare more than the normal 3 or 4 drafts of the documents prior to closing. It also assumes that our firm will not be called upon to perform additional services with regard to securities law disclosure or other aspects of the transaction falling outside the traditional responsibilities of Bond Counsel outlined above. In the event that the facts do not bear out the foregoing assumptions, we expect to charge for our additional services on an hourly basis. In any event, we will discuss with the Corporation any additional services to be performed by us prior to our performing them.

We recognize that the Corporation will have more applicants and more repeat business if project beneficiaries feel that they have been fairly treated by the Corporation and its staff, including legal counsel. In this regard, we feel almost as a partner with the Corporation and often sacrifice short-term gain for the long term interests of the Corporation. Accordingly, we take pains to ensure that the project beneficiary is advised early on in the process regarding what magnitude of legal bills to expect, and endeavor to enter into an engagement letter with the client spelling out both his and our expectations prior to performing significant work beyond the inducement stage. We also endeavor to ensure that our bills do not exceed comparable bills rendered by upstate firms on comparable transactions.

Sometimes, our client will advise us early on in a transaction that the transaction is “fee-sensitive”-i.e., that the applicant will only utilize the Corporation in the transaction if total fees are kept below a certain ceiling. In these circumstances, we will advise our client whether it is possible to keep our fees below a ceiling, and if we agree that it is possible, we will thereafter ensure that our fees do not exceed the ceiling. Similarly, if we agree to include our disbursements in such a ceiling, we will ensure that our total bill does not exceed the ceiling.

If the Corporation or the Applicant requests that we perform additional services beyond those described above, our fee for those additional services will be based on the time which we devote to said additional services. Our firm’s hourly rates presently range between \$210 and \$815 for lawyers and between \$110 and \$410 for legal assistants. The current hourly rate for A. Joseph Scott, III is \$480/hour. Periodic statements showing the current legal fee due will be made available for review by the Applicant and/or the Corporation upon request.

In connection with the issuance of the Bonds, we typically incur significant out-of-pocket expenses, such as photocopying, shipping of documents, travel, long distance telephone calls and filing fees. In addition, we compile a closing transcript after the Bonds are issued is completed, which is distributed to each of the parties to the transaction and which involves additional photocopying costs and binding fees. Such out-of-pocket expenses are not included as part of our fee for professional legal services, and periodic statements showing the amount of such disbursements will be made available for review by the Applicant and/or the Corporation upon request. For your information, we have attached hereto as Schedule C our policy with respect to the recovery of client disbursements. The actual amount of the disbursements may be minimized by shipping documents first class mail rather than by overnight courier and by limiting the number of drafts of documents. Upon request, we will discuss with the Applicant or the Corporation in more detail the steps we can take to minimize disbursements.

In performing our services as Bond Counsel, our primary client relationship will be with the Corporation, although the transaction will be for the primary benefit of the Applicant. We assume that the Applicant and the other parties to the transaction will retain such counsel as they deem necessary and appropriate to represent their respective interests in the transaction.

SCHEDULE B

Non-Applicant Projects

General

Where the Corporation proposes to undertake a transaction involving a project which does not involve an applicant (a “Non-Applicant Project”), we would anticipate acting as counsel to the Corporation with respect to said transaction. Examples of Non-Applicant Projects undertaken by capital resource corporations around New York State include offices for the capital resource corporation, incubator buildings, industrial parks, shortline rail facilities, community centers, an airport, a parking garage and similar examples of “economic development infrastructure”. Examples of transactions involving Non-Applicant Projects might include obtaining financing (in the form of grants and/or loans) with respect thereto; reviewing real estate title records and/or title reports relating thereto; reviewing acquisition and/or construction documentation relating thereto; documenting the leasing and/or sale thereof, in whole or in part; and handling other matters relating thereto. Other examples include the review of Corporation policies and procedures, including policies relating to the Public Authorities Accountability Act of 2006, and the preparation of Application Forms and Policy Manuals.

Once we understand the scope of the work which the Corporation desires us to undertake with respect to a particular transaction, we will discuss with the Corporation an estimate of our anticipated fees for said transaction. We would expect to bill such matters at our normal hourly rates. Once we and the Corporation reach an understanding as to the legal budget for said transaction, the source for payment thereof and the billing schedule related thereto, we will send a letter to the Corporation memorializing said understanding. Periodic statements showing the current legal fee due will be made available for review by the Corporation upon request.

SCHEDULE C

Firm Policy With Respect to Client Disbursements

In the course of providing legal services to its clients, the Firm will from time to time incur various expenses on their behalf. These expenses are generally invoiced to the client in addition to the fees for legal services rendered. It is the policy of the Firm to attempt to keep these charges as low as possible, consistent with the timely performance of high quality legal services. Further, the Firm reserves the right to adjust the various charges for client disbursements on an annual basis, in the course of the Firm's customary review of attorney hourly rates and charges. Any adjustments in such charges will be made available to the client at the client's request.

The client is entitled to establish certain parameters in an attempt to limit disbursement charges, but it must be recognized that certain charges may be inevitable due to the nature of the transaction or legal services involved. Clients who desire to establish parameters for disbursements should contact the attorney-in-charge of the specific matter.

Certain of the disbursements described below are increased by a multiplier to compensate the Firm for various costs not identifiable to a particular client.

Set forth below are summary descriptions of the categories of disbursements commonly incurred on behalf of our clients. This list is by no means exhaustive, and other charges not described below will be invoiced to the client in an appropriate manner. Furthermore, the charges for certain of the items described below are imposed by third parties and may be increased without notice to us or to our clients:

1. **BINDING:** The entire cost of binding transcripts for circulation to various financing participants is invoiced to the client. The total cost is a function on the number and size of the transcripts to be bound and the charges for photocopies (see below).
2. **COMPUTER TIME SHARING:** The actual cost of computer time sharing for access to legal and other data bases will be passed through to the client. These charges are generally incurred in the course of performing legal research.
3. **FILING AND RECORDING FEES AND CERTIFICATE CHARGES:** The cost of various filings and recordings with federal, state and local agencies is borne by the client. Charges for obtaining certified copies of documents from federal, state and local agencies are also invoiced to the client. Occasionally, due to the nature and timing of the transaction involved, filings or requests for certified copies will be handled through service companies which may charge a premium rate.
4. **PUBLICATION:** Certain transactions require the publication of legal notices. The charges for such publication are established by the respective newspaper or periodical, and it is the policy of the Firm to pay the vendor directly and then forward the invoice to the client for reimbursement of same to the Firm.
5. **STAFF OVERTIME:** When secretarial or other support staff are required to work overtime with respect to a specific transaction, the cost is invoiced to the client at the rate of \$32.00 per hour. In

addition, all employees who work 10.5 consecutive hours or more are entitled to receive either lunch or dinner at the Firm's expense. These meal costs will be charged to the client responsible for the overtime costs.

6. PHOTOCOPIES: Photocopies are charged at a rate of 10 cents per page. For large quantities of photocopying which do not require immediate turnaround, we will use a local photocopying service if it can provide copies at a lower rate.
7. SHIPPING AND LOCAL DELIVERY: The cost of shipment by Federal Express, United Parcel Service, Express Mail, U.S. Mail or other delivery service at the retail price charged for such service is invoiced directly to the client. The actual amount of the charges will depend upon the number, weight, and carrier of packages and letters sent. The client will also be charged for local delivery by outside couriers at their normal rates, and for our in-house courier (\$7.50 per delivery or package).
8. TELEPHONE: The Firm's telephone system allows for the attribution of long distance charges to the appropriate client and file. These charges include long distance charges for telecopies, as well as conference calls arranged through Soundpath Conferencing Services. Most of our long distance calls are placed through RCI Long Distance Service at rates approximately the same as AT&T rates.
9. TELECOPY: Telecopies are charged at 50 cents per page. The charge is designed to amortize the cost of acquiring and maintaining our telecopiers, as well as to cover the cost of administrative expenses associated with telecopy charges, the cost of collection and the time-value of money.
10. TRAVEL: The actual cost of travel, including charges for mileage for firm-owned or attorney-owned automobiles at 58 cents per mile, parking, plane or train fares, taxi, hotel, meals, etc., will be invoiced to the client.

SCHEDULE D

Firm Policy With Respect to Various Administrative Matters

General

For your information, Part 1215 of the Joint Rules of the Appellate Division requires that a letter of engagement be sent to any person or entity that is responsible for the payment of attorney's fees. Further, in the unlikely event that a dispute arises between us relating to our fees, you may have the right to arbitration of the dispute pursuant to Part 137 of the Rules of the Chief Administrator of the Courts, a copy of which will be provided to you upon request.

Attorney Representation Conflicts and Waivers

In performing our services to the Corporation, we represent only the Corporation. We assume that other parties to a transaction involving the Corporation will retain such counsel as they deem necessary and appropriate to represent their interest in the transaction. As we have discussed, you are aware that we represent many other clients in numerous and diverse matters. It is possible that, during the time that we are representing the Corporation, some of our past, present or future clients will have transactions with the Corporation. The Corporation agrees that we may continue to represent, or may undertake in the future to represent, existing or new clients in any matter that is not substantially related to our work with the Corporation (even if the interests of such clients in those other matters is directly adverse to the interests of the Corporation); however, we agree that your prospective consent to conflicting representation shall not apply in any instance where, as a result of our representation of the Corporation, we have obtained proprietary or other confidential information of a non-public nature, that, if known to such other client, could be used in any such other matter by such client to your material disadvantage.

In certain circumstances, a past or present client of our Firm may ask us to represent that client directly in a transaction involving the Corporation. In such situation, if the Corporation obtains separate counsel to represent the Corporation and if the Corporation consents to our representation of such client in such transaction, we may represent such client in such transaction, even if the interests of such client in such transaction is directly adverse to the interests of the Corporation; however, we agree that your prospective consent to such conflicting representation shall not apply in any instance where, as a result of our representation of the Corporation, we have obtained proprietary or other confidential information of a non-public nature, that, if known to such other client, could be used in such transaction by such client to your material disadvantage.

Acceptance of this proposal further constitutes authorization by the Corporation to permit the Chair or the Chief Executive Officer of the Corporation to execute any writing required by our conflicts partner to resolve any such "potential" conflicts of interest that may arise in the future.

Client Communications

As noted above, in performing our services as bond counsel to the Corporation, our client is the Corporation, and we represent its interests in connection with the particular matter. While the Corporation takes formal action by resolution of its board (the “Corporation Board”), the Chief Executive Officer typically has the day-to-day responsibility for the operations of the Corporation and the undertaking of Applicant and Non-applicant Projects. Further, since the members of the Corporation Board are appointed officials and not full-time employees of the Corporation, we anticipate that the majority of our conversations and discussions will be with the Chair, the Vice Chair, the Chief Executive Officer, the Chief Financial Officer and other officers of the Corporation.

Accordingly, when we need to communicate information to the Corporation, you agree that communicating same to the Chair, the Vice Chair, the Chief Executive Officer, the Chief Financial Officer or any other official of the Corporation shall be treated as if we had communicated such information to the full membership of the Corporation. Further, if in our reasonable judgment we believe it necessary to communicate directly with the full membership of the Corporation, we will be permitted to do so.

PROFESSIONAL SERVICES AGREEMENT
Between
CAPITALIZE ALBANY CORPORATION (CAC)

and

CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY (CAIDA)

and

CITY OF ALBANY CAPITAL RESOURCE CORPORATION (CACRC)

This agreement, made this xxth day of January, in the year Two Thousand and Twenty between the City of Albany Industrial Development Agency (hereinafter referred to as the (“CAIDA”), the City of Albany Capital Resource Corporation (hereinafter referred to as the (“CACRC”), and the Capitalize Albany Corporation, a not for profit corporation having its principal place of business at 21 Lodge Street, Albany, New York 12207 (hereinafter referred to as the “CAC”):

WITNESSETH:

WHEREAS, the CAC has offered to provide professional economic development management and administrative support services to the CAIDA and the CACRC, and,

WHEREAS, the CAIDA and the CACRC has accepted the offer of the CAC for such professional services.

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY COVENANT AND AGREE AS FOLLOWS:

ARTICLE 1 -SERVICES TO BE PERFORMED

The CAC shall perform the professional and administrative support services set forth under Article 2 entitled “SCOPE OF PROFESSIONAL SERVICES” during the period commencing on January 1, 2020 and continuing until December 31, 2020. In the performance and acceptance of the services herein, the parties understand, acknowledge and agree that the CAC is

assuming no managerial role, nor undertaking any oversight responsibilities with regard to the powers and duties of the CAIDA or the CACRC or the actions or non-actions of its Board of Directors. Nothing in this agreement should be construed to transfer governance, oversight or fiduciary responsibilities from the CAIDA or the CACRC to CAC.

ARTICLE 2 - SCOPE OF PROFESSIONAL SERVICES

During the period of this agreement, the CAC agrees to provide staffing, office equipment, utilities, phone and computer networking to perform the administrative, managerial, accounting, marketing, compliance, and project development functions of the CAIDA and the CACRC. Additionally, CAC will provide support to assist the Chief Executive Officer and Chief Financial Officer of the CAIDA and the CACRC in the execution of their CAIDA and CACRC duties. CAC shall be responsible for the services described on Schedule A attached.

ARTICLE 3 - PROFESSIONAL SERVICES FEE

In consideration of the terms and conditions of this agreement, the AIDA agrees to pay and the CAC agrees to accept, as full compensation for all services rendered under this agreement an amount not to exceed \$494,228. The CAC shall provide professional staff time towards fulfillment of this agreement, including all administrative clerical, secretarial, accounting, compliance, and information technology support as required.

ARTICLE 4 - METHOD OF PAYMENT

The CAIDA will pay CAC its professional services fee referenced under Article 3 of this agreement in twelve (12) monthly installments due and payable no later than the fifteenth day of each month.

ARTICLE 5 - TERMINATION

This agreement may be terminated at any time by any party for cause upon thirty (30) days written notice. In the event of termination, CAC shall be

entitled to compensation for all work performed pursuant to this agreement to the date of termination.

ARTICLE 6 – MUTUAL INDEMNIFICATION

a. CAC shall defend, indemnify and hold harmless CAIDA and CACRC and their agents and employees from and against claims, damages, losses and expenses, including, but not limited to reasonable attorneys' fees, arising out of or resulting from the negligence or willful misconduct of CAC in CAC's performance of the tasks detailed in this Agreement, except if such claims, damages, losses or expenses are caused by CAIDA's and/or CACRC's negligence or willful misconduct.

b. CAIDA shall defend, indemnify and hold harmless CAC and CACRC and their agents and employees from and against claims, damages, losses and expenses, including, but not limited to reasonable attorneys' fees, arising out of or resulting from the negligence or willful misconduct of CAIDA in CAIDA's performance of the tasks detailed in this Grant Agreement, except if such claims, damages, losses or expenses are caused by CAC's and/or CACRC's negligence or willful misconduct.

c. CACRC shall defend, indemnify and hold harmless CAIDA and CAC and their agents and employees from and against claims, damages, losses and expenses, including, but not limited to reasonable attorneys' fees, arising out of or resulting from the negligence or willful misconduct of CACRC in CACRC's performance of the tasks detailed in this Grant Agreement, except if such claims, damages, losses or expenses are caused by CAIDA's and/or CAC's negligence or willful misconduct.

ARTICLE 7 - EQUAL EMPLOYMENT OPPORTUNITY

CAC shall comply with all Federal, State, and Local equal employment opportunity laws, rules, and regulations relating, to all matters contained in this agreement.

ARTICLE 8 - ACCOUNTING RECORDS

Proper and full accounting records, including time sheets, shall be maintained by CAC for all services provided pursuant to this agreement. All applicable records shall be available for inspection or audit by the CAIDA if required.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

City of Albany Industrial Development Agency

By: _____
Chairperson

City of Albany Capital Resource Corporation

By: _____
Chairperson

Capitalize Albany Corporation

By: _____
Chairperson

SCHEDULE A

DESCRIPTION OF SERVICES

A. City of Albany Industrial Development Agency:

1. Implementation, execution and compliance with the CAIDA Policy Manual that was adopted at the June 2016 AIDA Meeting.
2. Provide for the deposit and investment of the funds of CAIDA in accordance with Part 4 of the CAIDA Policy Manual.
3. Provide for the preparation of reports of the deposit and investment of the funds of CAIDA in accordance with Part 4 of the CAIDA Policy Manual.
4. Ensure that procurement of goods or services by CAIDA complies with Part 5 of the CAIDA Policy Manual.
5. Prepare an annual budget of CAIDA and the filing of such budget in accordance with Part 6 of the CAIDA Policy Manual.
6. Monitor the activities of Bond Counsel to CAIDA to ensure compliance with Part 7 of the AIDA Policy Manual.
7. Provide for the preparation of financial statements and reports of CAIDA and the filing of such materials with appropriate State offices in accordance with Part 8 of the CAIDA Policy Manual.
8. Provide for compliance with the provisions of Part 9 of the CAIDA Policy Manual.
9. Report on questions involving potential conflicts of interest under Part 10 of the CAIDA Policy Manual.
10. Provide for distribution of materials in accordance with Part 11 of the CAIDA Policy Manual.
11. Consult with CAIDA agency counsel regarding membership and proper appointment of members of CAIDA pursuant to Part 12 of the CAIDA Policy Manual.
12. Act as Records Access Officer with regard to any requests for information under the Freedom of Information Act in accordance with Part 13 of the CAIDA Policy Manual.
13. Consult with Agency Counsel to CAIDA regarding proper notice of CAIDA meetings under Part 14 of the AIDA Policy Manual.

14. Prepare, organize, and distribute minutes of each CAIDA meeting in accordance with Part 14 of the CAIDA Policy Manual.
15. Coordinate the scheduling and noticing of public hearings and the delivery of notification letters in accordance with Part 15 of the CAIDA Policy Manual.
16. Organize and maintain files relating to SEQRA compliance in accordance with Part 17 of the CAIDA Policy Manual.
17. Monitor and maintain files regarding the Uniform Tax Exemption Policy of CAIDA, including ensuring that any filings required under Part 18 of the CAIDA Policy Manual are made.
18. Provide for the preparation and distribution of Applications by applicants in accordance with Part 19 of the CAIDA Policy Manual.
19. Monitor and provide for the volume cap of CAIDA in accordance with Part 20 of the CAIDA Policy Manual.
20. Monitor and maintain files regarding the collection of administrative fees of CAIDA under Part 21 of the CAIDA Policy Manual.
21. Monitor compliance with Agency requirements relating to the exemptions from certain sales and use taxes, real property taxes, real property transfer taxes, mortgage recording taxes, job creation, job retention and job reporting in accordance with Part 22 of the CAIDA Policy Manual.
22. Provide guidance in connection with any proposed assignment of an existing PILOT agreement in accordance with Part 23 of the CAIDA Policy Manual.
23. Ensure that applicants are utilizing local labor in accordance with Part 24 of the CAIDA Policy Manual.
24. Monitor project applicants to ensure that the applicant is not subject to recapturing of benefits in accordance with Part 25 of the CAIDA manual.
25. Follows the media relations policy in accordance with Part 26 of the CAIDA manual.
26. Provide uniform criteria for the evaluation of projects in accordance with Part 27 of the CAIDA manual.
27. Review, organize, monitor and maintain policies and files relating to the requirements imposed on the CAIDA relating to the Public Authorities Accountability Act ("PAAA") and the Public Authorities Reform Act

("PARA"), including, but not limited to, working with CAIDA Agency Counsel and CAIDA Bond Counsel with respect to such policies.

B. City of Albany Capital Resource Corporation:

CAC will provide services similar to those described in Section A. above to CACRC.

DRAFT

CONTRACT FOR SERVICES

THIS AGREEMENT dated as of January XX, 2020 (the "Agreement") between **CITY OF ALBANY CAPITAL RESOURCE CORPORATION** (the "Corporation"), a not-for-profit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 21 Lodge Street, Albany, New York, and **CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency"), a public benefit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 21 Lodge Street, Albany, New York;

WITNESSETH:

WHEREAS, the Corporation was created pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York, as amended (the "Enabling Act"), and pursuant to the provisions of the Enabling Act, Revenue Ruling 57-187, Private Letter Ruling 200936012, the Common Council of the City of Albany, New York (the "City") adopted a resolution on March 15, 2010 (the "Sponsor Resolution") (A) authorizing the incorporation of the Corporation under the Enabling Act and (B) appointing the initial members of the board of directors of the Corporation. In April, 2010, a certificate of incorporation was filed with the New York Secretary of State's Office (the "Certificate of Incorporation") creating the Corporation as a public instrumentality of the City; and

WHEREAS, the Corporation is authorized and empowered by the provisions of the Enabling Act to relieve and reduce unemployment, promote and provide for additional and maximum employment, better and maintain job opportunities, and lessen the burdens of government and act in the public interest, and in carrying out the aforesaid purposes and in exercising the powers conferred in the Enabling Act, the Enabling Act declares that the Corporation will be performing essential governmental functions; and

WHEREAS, to accomplish its stated purposes, the Corporation is authorized and empowered under the Enabling Act to acquire real and personal property; to borrow money and issue negotiable bonds, notes and other obligations therefore; to lease, sell, mortgage or otherwise dispose of or encumber any of its real or personal property upon such terms as it may determine; and otherwise to carry out its corporate purposes in the territory in which the operations of the Corporation are principally to be conducted; and

WHEREAS, pursuant to a professional services contract dated January XX, 2020 (the "Professional Services Agreement") by and among the Corporation, the Agency and Capitalize Albany Corporation (the "CAC"), the Corporation has contracted with the CAC for the management of the operations of the Corporation; and

WHEREAS, the CAC develops and implements the economic development strategy of the City of Albany and, in connection with the development and implementation of such strategy, the CAC undertakes various economic development programs and projects (the "Economic Development Program"); and

WHEREAS, in order to provide the Agency with funds to pay for the services to be delivered by CAC under the Professional Services Agreement, the Corporation proposes to enter into this Agreement under which the Corporation will provide funds to the Agency to pay a portion of the fees payable under the Professional Services Agreement; and

WHEREAS, the Corporation will provide funds to the Agency as a one-time disbursement during the term of this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Corporation and the Agency agree as follows:

1. **Services and Program.** The Corporation and the Agency agree as follows:
 - (a) That the Corporation will make available to the Agency an aggregate amount not to exceed the current budgeted amount of \$30,691. Actual aggregate amount due will be based on the Corporation's percentage of total project fees collected of both the Agency and the Corporation in 2020.
 - (b) That the proceeds will be used for the express purpose of funding a portion of the costs of the amounts payable under the Professional Services Agreement.
2. **Disbursement.** Proceeds shall be paid by the Corporation to the Agency on or about the last day of 2019. Disbursement of proceeds is based upon available cash.
3. **Compliance with Law.** The Agency covenants that it is aware of the laws governing the Corporation and the use of moneys of the Corporation, and the Agency agrees to use the moneys disbursed under this Agreement only in the manner so allowed.
4. **Repayment.** Nothing herein shall be construed to require the Agency to reimburse the Corporation.
5. **Information.** The Agency agrees to furnish to the Corporation, the following: (a) a financial report indicating how the proceeds are being spent; and (b) such other information as the Corporation may request. In addition, the Agency shall provide the Corporation with a copy of an annual report regarding the Economic Development Program.
6. **Indemnification.** To the fullest extent permitted by law, the Agency shall defend, indemnify and hold harmless the Corporation and its agents and employees from and against claims, damages, losses and expenses, including, but not limited to reasonable attorneys' fees, arising out of or resulting from the negligence or willful misconduct of Agency related to Agency's obligations in this Agreement, except if such claims, damages, losses or expenses are caused by the Corporation's gross negligence or willful misconduct.

7. **Notices.** (a) All notices and other communications hereunder shall be in writing and shall be deemed given when mailed by United States registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

(1) To the Corporation: at the address set forth in the initial paragraph of this Grant Agreement, with a copy to:

City of Albany
City Hall
Albany, New York 12207
Attention: Corporation Counsel

(2) To the Agency: at the address set forth in the initial paragraph of this Grant Agreement.

(b) The Corporation and the Agency may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and date first written above.

CITY OF ALBANY CAPITAL RESOURCE
CORPORATION

BY: _____
Authorized Officer

CITY OF ALBANY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____
Authorized Officer

CITY OF ALBANY CAPITAL RESOURCE CORPORATION

PROCUREMENT POLICY

SECTION 1. PURPOSE AND AUTHORITY. The purpose of this procurement policy (the "Policy") is to outline the procurement policy of City of Albany Capital Resource Corporation (the "Corporation") applicable to procurements of goods and services paid for by the Corporation for its own use and benefit.

SECTION 2. SECURING GOODS AND SERVICES. All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations, or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided except for in the following circumstances: Purchases costing less than \$500; goods purchased from agencies for the blind or severely handicapped pursuant to Section 175-b of the State Finance Law; goods purchased from correctional institutions pursuant to Section 186 of the Correction Law; Purchases under state contracts pursuant to Section 104 of the General Municipal Law; Purchases under county contracts pursuant to Section 103(3) of the General Municipal Law; or Purchases pursuant to Section 4 of this Policy.

SECTION 3. METHOD OF PURCHASE. The following method of Purchase will be used when required by this Policy in order to achieve the highest savings:

<u>Estimated Amount of Purchase Contract</u>	<u>Method</u>
\$500-\$2,999	2 verbal quotations
\$3,000 and above	3 written/fax quotations or written request for proposals
<u>Estimated Amount of Public Works Contract</u>	<u>Method</u>
\$500-\$2,999	2 verbal quotations
\$3,000-\$4,999	2 written/fax quotations
\$5,000 and above	3 written/fax quotations or written request for proposals

(B) Number of Proposals or Quotations. A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

(C) Documentation. Documentation is required of each action that is taken in connection with any procurement. Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offeror. This documentation will include an explanation of how the reward will achieve savings or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

SECTION 4. CIRCUMSTANCES WHERE SOLICITATION OF ALTERNATIVE PROPOSALS AND QUOTATIONS NOT IN BEST INTEREST. This Policy may contain circumstances when, or types of procurements for which, in the sole discretion of the directors of the Corporation, the solicitation of

alternative proposals or quotations will not be in the best interest of the Corporation. In the following circumstances, it may not be in the best interests of the Corporation to solicit quotations or document the basis for not accepting the lowest bid:

(A) Professional Services. Professional services or services requiring special or technical skill, training or expertise. The individual, company or firm must be chosen based on accountability, reliability, responsibility, skill, conflict of interests, reputation, education and training, judgement, integrity, continuity of service and moral worth. Furthermore, certain professional services to be provided to the Corporation, e.g., legal and accounting services, impact liability issues of the Corporation and its directors, including securities liability in circumstances where the Corporation is issuing bonds. These qualifications and the concerns of the Corporation regarding its liability and the liability of its directors are not necessarily found or addressed in the individual, company or firm that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures.

In determining whether a service fits into this category, the Corporation shall take into consideration the following guidelines: (a) whether the services are subject to state licensing or testing requirements; (b) whether substantial formal education or training is a necessary prerequisite to the performance of the services; and (c) whether the services require a personal relationship between the individual and the directors of the Corporation. Professional or technical services shall include but not be limited to the following: services of an attorney (including bond counsel); services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or art work; management of Corporation-owned property; real estate brokerage services; appraisers; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of pre-packaged software.

(B) Emergency Purchases. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the public. This section does not preclude alternate proposals if time permits.

(C) Purchases of Secondhand Goods. If alternate proposals are required, the Corporation is precluded from purchasing surplus and second-hand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.

(D) Goods or Services Under \$500. The time and documentation required to Purchase through this Policy may be more costly than the item itself and would therefore not be in the best interests of the taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based on favoritism.

(E) Special Findings. In the event the Corporation determines that the solicitation of alternative proposals or quotations is not in the best interests of the Corporation, the Corporation must make such determination by resolution duly adopted and entered into the minutes of the Corporation. Such resolution should include any findings described in this Section 4 supporting such determination.

SECTION 5. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN. (A) All Corporation documents soliciting bids or proposals for Corporation contracts shall contain or make reference to the following provisions:

1. The Corporation will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority

group members and women are afforded equal employment opportunities without discrimination. For purposes of this Section, affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation; and

2. The Corporation shall state, in all solicitations or advertisements for employees, that, in the performance of the Corporation contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(B) Any contract awarded by the Corporation will include the provisions of Section 5(A) hereof in any subcontract, in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the Corporation contract.

(C) The provisions of this Section 5 shall not be binding upon contractors or subcontractors in the performance of work or the provision of services or any other activity that are unrelated, separate or distinct from the Corporation contract as expressed by its terms.

(D) In the implementation of this Section 5, the Corporation shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this Section. The Corporation shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such law and if such duplication or conflict exists, the Corporation shall waive the applicability of this Section 5 to the extent of such duplication or conflict.

(E) The Corporation shall ensure that “certified businesses” (as defined in Section 310 of the Executive Law of the State of New York) shall be given the opportunity for meaningful participation in the performance of Corporation contracts and to identify those Corporation contracts for which certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of Corporation contracts so as to facilitate the award of a fair share of Corporation contracts to such businesses.

SECTION 6. POLICY REVIEW. This policy will be reviewed annually.

CITY OF ALBANY CAPITAL RESOURCE CORPORATION

INVESTMENT POLICY

SECTION 101. PURPOSE AND AUTHORITY. (A) Corporation Funds. The purpose of this Part is to implement Section 858-a(3) of Title One of Article 18-A of the General Municipal Law (the “Act”), and to make the Act applicable to deposits and investments made by City of Albany Capital Resource Corporation (the “Corporation”) of funds for the use and account of the Corporation (“Corporation Funds”).

(B) Non-Corporation Funds. The provisions of this Policy shall not apply to funds derived from the sale of bonds, notes or other obligations issued to fund a particular project for the benefit of a particular applicant, or any other funds of the Corporation which are not Corporation Funds.

SECTION 102. DEPOSITS OF CORPORATION FUNDS. (A) Designation of Depositories. The Corporation shall by resolution or resolutions of the directors of the Corporation designate one or more banks or trust companies (each, a “Depository”) for the deposit of Corporation Funds received by the treasurer or any other officer of the Corporation authorized by law or the by-laws of the Corporation to make deposits. Such resolution or resolutions shall specify the maximum amount that may be kept on deposit at any time in each Depository. Such designations and amounts may be changed at any time by a further resolution of the directors of the Corporation.

(B) Security. All Corporation Funds in excess of the amount insured under the provisions of the Federal Deposit Insurance Act as now or hereinafter amended shall be secured in accordance with the provisions of Section 10(3) of the General Municipal Law. Generally, Section 10(3) of the General Municipal Law provides that Corporation Funds may be secured by (1) a pledge of “eligible securities” (as defined in Section 10(1) of the General Municipal Law), together with a security agreement and custodial agreement meeting the requirements of Section 10(3)(a) of the General Municipal Law, or (2) an “eligible surety bond” or an “eligible letter of credit” (as such quoted terms are defined in Section 10(1) of the General Municipal Law) securing 100% of such Corporation Funds.

SECTION 103. INVESTMENTS OF CORPORATION FUNDS. (A) Investment Policy. It is the general policy of the Corporation that Corporation Funds not required for immediate expenditure shall be invested in the types of investments as described in subsection (C) below. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived. The Corporation has considered issues of yield, convenience and safety and its general policy regarding the investment of Corporation Funds will be to purchase from local banks the investments described in Section 103(C)(1) hereof. The Corporation has considered issues of yield, convenience and safety and its general policy regarding the investment of Corporation Funds will be to purchase from local banks the investments described in Section 103(C)(1) hereof.

(B) Designation of Investment Officers. The Treasurer, the Chairman and any other officer or employee of the Corporation so authorized by the by-laws of the Corporation or by resolution of the directors of the Corporation (each, an “Investment Officer”) are authorized to temporarily invest Corporation Funds not required for immediate expenditure. Any designation of an Investment Officer

made by resolutions of the directors of the Corporation may be changed at any time by a further resolution of the directors of the Corporation.

(C) Types of Investments. Except as otherwise provided by resolution of the directors of the Corporation, an Investment Officer may invest Corporation Funds in any obligation described in Section 11(2) and Section 11(3) of the General Municipal Law. Generally, Sections 11(2) and 11 of the General Municipal Law permit the following types of investments:

(1) special time deposits in, or certificates of deposit issued by, any bank or trust company located and authorized to do business in the State of New York, provided that such deposit account or certificate of deposit is secured in the same manner as is provided for securing deposits of Corporation Funds by Section 10(3) of the General Municipal Law;

(2) obligations of, or obligations where the payment of principal and interest are guaranteed by, the United States of America;

(3) obligations of the State of New York; and

(4) with the approval of the State Comptroller, tax anticipation notes and revenue anticipation notes issued by any municipality or school district or district corporation organized under the laws of the State of New York.

(D) Custodians. The Corporation may, by resolution of the directors of the Corporation, authorize the Investment Officers to turn over the physical safekeeping and evidences of the investments made pursuant to subsection (C) of this Section (“Corporation Investments”) to any entity authorized pursuant to Section 11(4) of the General Municipal Law to act as a custodian of Corporation Investments, but only upon compliance with the requirements of Section 11(4) of the General Municipal Law. Generally, Section 11(4) of the General Municipal Law allows the following types of entities to act as custodians of Corporation Investments:

(1) any bank or trust company incorporated in the State of New York;

(2) any national bank located in the State of New York; and

(3) any private banker duly authorized by the New York State Superintendent of Banks to engage in business in New York State which maintains a permanent capital of not less than one million dollars in New York State.

(E) Commingling. Any Corporation Funds invested pursuant to this Section may be commingled for investment purposes upon compliance with the requirements of Section 11(6) of the General Municipal Law. Generally, Section 11(6) of the General Municipal Law allows commingling of Agency Investments so long as (1) such investment is payable or redeemable at the option of the Corporation within such time as the proceeds are needed by the Corporation, (2) the separate identity of such funds are maintained at all times, and (3) income received on such commingled monies is credited on a pro rata basis to the fund or account from which the monies were invested.

(F) Proper Records. The treasurer of the Corporation shall maintain (or cause the Investment Officers to maintain) a proper record of all books, notes, securities or other evidences of indebtedness held by or for the Corporation for purposes of investment. Such record shall at least (where applicable) (1)

identify the security, (2) the fund for which held, (3) the place where kept, (4) the date of sale or other disposition, and (5) the amount received from such sale or other disposition.

(G) Sample Resolution. Attached hereto as **Schedule A** is a sample form of resolution naming Depositories and Investment Officers pursuant to this Part and restricting the types of investments in which an Investment Officer may invest Corporation Funds.

SECTION 104. INTERNAL CONTROLS. (A) Periodic Reviews. To the maximum extent possible, the Executive Director of the Corporation shall prepare and submit to the directors of the Corporation at each regular meeting of the Corporation (but not more often than monthly), a summary showing the amount of Corporation Funds on deposit in each Depository and the general nature of the investment of such Corporation Funds. Such reports shall be prepared within thirty (30) days of the end of each fiscal quarter. The treasurer shall in turn present such reports at the next regularly scheduled meeting of the Corporation following the completion of such report.

(B) Annual Report. Within thirty (30) days of the end of each fiscal year, the Chief Executive Officer of the Corporation shall prepare and submit to the directors of the Corporation an annual investment report (the "Annual Investment Report") showing the deposits and investments of Corporation Funds as of the beginning of such fiscal year, a summary of the changes in such amounts during such fiscal year, a summary of the earnings thereon during such fiscal year, and the balance thereof as of the end of such fiscal year. The Treasurer of the Corporation shall then present said report to the directors of the Corporation at the last regular meeting of the Corporation for the fiscal year.

(C) Annual Audit. The Annual Investment Report shall be audited by the Corporation's independent certified public accountant as part of the Corporation's annual general audit.

(D) Annual Review. The directors of the Corporation shall review the Annual Investment Report and the annual audit and this Part, and shall make any amendments to this Part necessary to achieve the purposes of this Part.

SCHEDULE "A"

**RESOLUTION NAMING DEPOSITORIES
AND INVESTMENT OFFICERS
AND RESTRICTING TYPES OF INVESTMENTS**

WHEREAS, City of Albany Capital Resource Corporation (the "Corporation") is a not-for-profit corporation of the State of New York duly established pursuant to Section 1411 of the New York State Not-For-Profit Corporation Law (the "NFPCL"); and

WHEREAS, pursuant to the Corporation's Investment Policy, the Corporation has decided to have Section 10 and Section 11 of the General Municipal Law apply to the deposit and investment of funds for the Corporation's own use and account ("Corporation Funds"); and

WHEREAS, the Corporation Investment Policy was adopted by the directors of the Corporation on _____; and

WHEREAS, the directors of the Corporation now desire to determine certain matters required to be determined pursuant to the Deposit and Investment Policy;

NOW, THEREFORE, BE IT RESOLVED BY THE DIRECTORS OF CITY OF ALBANY CAPITAL RESOURCE CORPORATION AS FOLLOWS:

SECTION 1. Pursuant to the Investment Policy, the Corporation hereby (A) designates the following banks and/or trust companies as depositories (each, a "Depository") for the deposit of Corporation Funds received by the Corporation, and (B) determines that the maximum amount that may be kept on deposit in each such depository is the amount set forth opposite the name of such depository in the following table:

<u>INSTITUTION</u>	<u>MAXIMUM AMOUNT TO BE ON DEPOSIT</u>
_____	\$ _____
_____	\$ _____

SECTION 2. Pursuant to the Investment Policy, the following officers of the Corporation (each, an "Investment Officer") are authorized to temporarily invest Corporation Funds not required for immediate expenditure:

<u>NAME</u>	<u>OFFICE</u>
_____	_____
_____	_____
_____	_____

SECTION 3. Unless otherwise determined by resolution of the directors of the Corporation, Corporation Funds shall be kept in insured certificates of deposit, insured money market accounts or other accounts of a Depository which are insured by the Federal Deposit Insurance Corporation, and no Corporation Funds shall be deposited in an account if such deposit would cause such account to exceed the maximum insured limit.

SECTION 4. This resolution shall take effect immediately, and shall remain in effect, as modified, amended, supplemented by subsequent resolutions of the directors of the Corporation, until the same may be rescinded by subsequent resolutions of the directors of the Corporation.