

# City of Albany Industrial Development Agency

21 Lodge Street  
Albany, New York 12207  
Telephone: (518) 434-2532  
Fax: (518) 434-9846

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: Tracy Metzger  
Darius Shahinfar  
Susan Pedo  
Robert Schofield  
Lee Eck  
Dominick Calsolaro  
Jahkeen Hoke

CC: Sarah Reginelli  
William Kelly  
Joe Scott  
Mark Opalka  
Andy Corcione  
Virginia Rawlins  
Tammie Fanfa

Date: January 10, 2020

## IDA REGULAR MEETING AGENDA

A Regular Meeting of the City of Albany Industrial Development Agency Board of Directors will be held on **Thursday, January 16, 2020 at 12:15 pm** at 21 Lodge Street, Albany, NY 12207 (Large Conf. Room)

### **Roll Call, Reading & Approval of the Minutes of the Board Meeting of December 19, 2019**

#### **Report of Chief Financial Officer**

- Financial Report

#### **Unfinished Business**

- A. 563 New Scotland Ave, LLC (New Scotland Village)
  - Project Synopsis
  - SEQR Resolution
  - Commercial Retail Findings Resolution
  - PILOT Deviation Approval Resolution
  - Approving Resolution

#### **New Business**

- A. 915 Broadway LLC (745 Broadway)
  - Public Hearing Resolution
- B. Annual Housekeeping Resolution 2020
- C. Presentation of Annual Investment Report
- D. Property Acquisition and Disposition Report

#### **Other Business**

- A. Agency Update
- B. Compliance Update

#### **Adjournment**

The next regularly scheduled Board Meeting will be held **Thursday, February 20, 2020** at 21 Lodge Street, Albany, NY. Please check the website [www.albanyida.com](http://www.albanyida.com) for updated meeting information.

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## IDA MINUTES OF REGULAR MEETING December 19, 2019 at 12:15 p.m.

Attending: Tracy Metzger, Lee Eck, Darius Shahinfar, Susan Pedo, Robert Schofield, Dominick Calsolaro, and Jahkeen Hoke

Absent: None

Also Present: Sarah Reginelli, Amy Lavine, Bill Kelly, Joe Scott, Andy Corcione, Mark Opalka and Tammie Fanfa

Public Present: Ian Benjamin, Phil Stenglein, Matthew Riordan, Dave Patnade, Connie Cahill, Gary Singh, Deb Lambek

Chair Tracy Metzger called the Regular Meeting of the IDA to order at 12:17 p.m.

### **Roll Call, Reading and Approval of Minutes of the November 21, 2019 Board Meeting**

Since the minutes of the previous meeting had been distributed to Board members in advance for review, Chair Tracy Metzger made a proposal to dispense with the reading of the minutes. Chair Tracy Metzger made a proposal to approve the minutes of the regular Board meeting of November 21, 2019 as presented. A motion to accept the minutes, as presented, was made by Robert Schofield and seconded by Dominick Calsolaro. A vote being taken, Tracy Metzger and Lee Eck abstained from the vote, the motion passed with all other members voting aye, minutes were accepted.

### **Unfinished Business**

#### **2020 Professional Services Agreements**

##### *Professional Services*

Susan Pedo disclosed that she is on the Capitalize Albany Corporation Board of Directors. The Committee reviewed the Professional Services Agreement between Capitalize Albany Corporation, and Capital Resource Corporation, in which Capitalize Albany Corporation provides professional economic development management and administrative support services to the Capital Resource Corporation. The amount in the Agreement has increased by approximately \$100,000. This amount more closely aligns with services provided, and is approved by the Board for the 2020 Budget. Staff offered to leave the room to facilitate/allow further discussion, but the committee did not think that was necessary. A motion to advance the contract to the full Board with positive recommendation was made by Darius Shahinfar and seconded by Robert Schofield. Susan Pedo recused from the vote. A vote being taken, the motion passed with all other members voting aye.

##### *Contract for Services – Economic Development*

Susan Pedo disclosed that she is on the Capitalize Albany Corporation Board of Directors. The Committee reviewed the Contract for Services for economic development between the City of Albany IDA and

Capitalize Albany Corporation. There are no changes to the agreement from the previous year. A motion to advance the contract to the full Board with positive recommendation was made by Robert Schofield and seconded by Lee Eck. Susan Pedo recused abstained from the vote. A vote being taken, the motion passed with all other members voting aye.

#### *Contract for Services – IDA*

The Committee reviewed the Contract for Services between the City of Albany IDA and the Capital Resource Corporation. A motion to advance the contract to the full Board with positive recommendation was made by Lee Eck and seconded by Robert Schofield. Susan Pedo recused from the vote. A vote being taken, the motion passed with all other members voting aye.

#### **New Business**

##### FC 705 Broadway, LLC/705 Broadway Hotel, LLC

Chair Tracy Metzger introduced the *FC 705 Broadway, LLC/705 Broadway Hotel, LLC* project. Staff introduced the request at hand and Agency counsel explained that the applicant is requesting Agency permission to extend the project's interim sales tax exemption letter from December 31, 2019 through March 1, 2020. Counsel also reiterated that no new abatements or financial assistance are associated with the request, which is strictly administrative in nature.

A motion to approve the *Resolution Extending Agent Appointment Term & Authorizing Amendment to Interim Documents for the FC 705 Broadway, LLC/705 Broadway Hotel, LLC* project was made by Robert Schofield, and seconded by Tracy Metzger. Lee Eck abstained from the vote. A vote being taken, the motion passed with all other members voting aye.

##### Columbia 425 NS, LLC

Chair Tracy Metzger introduced the *Columbia 425 NS, LLC* project. Staff introduced the request at hand and a representative of the Applicant was present to answer any questions that the Board may have. Agency counsel explained that the applicant is requesting Agency permission to refinance an existing mortgage on the property. Counsel also reiterated that no new abatements or financial assistance are associated with the request, which is strictly administrative in nature.

A motion to approve the Resolution Authorizing Refinancing for the *Columbia 425 NS, LLC* project was made by Tracy Metzger, and seconded by Robert Schofield. A vote being taken, the motion passed unanimously.

##### 1385 Washington Ave Property Associates, LLC

Chair Tracy Metzger introduced the *1385 Washington Ave Property Associates, LLC* project. Staff introduced the request at hand and a representative of the Applicant was present to answer any questions that the Board may have. Agency counsel explained that the applicant is requesting Agency permission to transition from a construction loan to a permanent mortgage financing on the property. Counsel also reiterated that while additional abatements will be received by the applicant, this is typical as the mortgage financing represented on the application is an estimation. Counsel also reiterated that less than \$100,000.00 in additional assistance is being received a public hearing is not required regarding this action. Staff noted as part of this action, that applicant will be required to agree to the Agency's Change in Control Policy.

A motion to approve the Resolution Authorizing Refinancing for the *1385 Washington Ave Property Associates, LLC* project was made by Robert Schofield, and seconded by Darius Shahinfar. A vote being taken, the motion passed unanimously.

#### **Other Business**

##### Compliance Update

Staff informed the Committee that default letters for three projects (Dilek LLC, Nipper Apartments, LLC and 960 Broadway, LLC) had been sent. Staff will provide ongoing updates on the process and the projects.

### Agency Update

Staff informed the Board that the 915 Broadway, LLC project, which was introduced at the Finance Committee on December 11<sup>th</sup>, will be requesting a deviation from the assistance schedule within the Evaluation & Assistance Framework. Therefore, staff requested Board consent to seek and subsequently approve a 3<sup>rd</sup> party analysis of the appropriateness of requested level of Agency assistance. The Board unanimously consented.

Staff discussed the new legislation going into effect in 2020 requiring all IDA meetings to be live streamed. Staff discussed the technological upgrades made to the conference room and their associated costs. Staff requested Board consent to expend the necessary funding to comply with this new legislation. A motion was made by Darius Shahinfar and seconded by Jahkeen Hoke. The Board unanimously consented.

### The Rep, LLC

The Rep LLC, a project approved for assistance by the Board in June 2019. As part of the closing process, the project applicant made a request to amend the closing documents, specifically, language in Section 10.2(2) of the Lease Agreement. Member Robert Schofield recused himself from all discussions relating to the matter and left the room. Agency Counsel outlined the request in detail and informed the Board that should they agree to the request, the intent of Section 10.2(2) remains intact and the Agency remains protected in an Event of Default by the project beneficiary. The Board unanimously consented.

### NYSEDC

Staff discussed the upcoming opportunity to sponsor the 2020 NYEDC Annual Meeting and Conference on January 28<sup>th</sup> through the 30<sup>th</sup> to be held at the Capital Center. The Board was reminded that last year the Agency committed to the “Bronze Level” sponsor. The Board agreed to do so again in 2020. Sarah Reginelli disclosed that she sits on the Board of the NYEDC.

A motion to approve Bronze Level sponsorship for the 2020 NYEDC Annual meeting was made by Darius Shahinfar, and seconded by Lee Eck. A vote being taken, the motion passed unanimously.

Staff presented a detailed overview of the annual economic development activities of Capitalize Albany Corporation. Staff reviewed the Capitalize Albany annual report – Building for Tomorrow – and distributed copies to the Board. Staff described 2019 achievements including the Downtown Revitalization Initiative Award, Liberty Park, the North Pearl St portfolio, and the Skyway. The Board discussed Capitalize Albany’s performance, had a robust question and answer period with the staff and commended the staff on progress made throughout the City of Albany.

Staff indicated that Board Member Susan Pedo had requested reimbursement of her Investor/Membership fee to Capitalize Albany Corporation. Staff explained that all Capitalize Albany Corporation Board Members must be doing business in the City of Albany, be investor/members of the Corporation and be independently elected by the investor base/membership of the Corporation. Capitalize Albany Board Members are typically nominated by the Corporation Board’s Governance Committee based on their background and experience. In Susan Pedo’s case, serving on the Industrial Development Agency Board was a highlight of her background leading to her election as a Capitalize Albany Board Member. The CAIDA Board discussed the merits of having an interlocking Board member in order to ensure communications on priorities, project activity, and best practices continue to be effective and efficient. Staff indicated that the “Individual” Capitalize Albany Investor/Member fee is currently \$250. Lee Eck made a motion to approve reimbursement of Susan Pedo’s Capitalize Albany Corporation Investor/Membership fee, which was seconded by Dominick Calsolaro. Susan Pedo recused herself from the vote. A vote being taken, the motion passed with all other members voting aye.

### **Report of Chief Financial Officer**

#### Monthly Financial Report

Staff reviewed the financial report that was provided in advance for review.

There being no further business, Chair adjourned the meeting at 1:10 p.m.

Respectfully submitted,

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Lee Eck, Secretary

**City of Albany IDA**  
2019 Monthly Cash Position  
December 2019

	<i>Actual</i>												
	January	February	March	April	May	June	July	August	September	October	November	December	YTD Total
<b>Beginning Balance</b>	\$ 2,563,831	\$ 2,607,993	\$ 2,610,247	\$ 2,604,875	\$ 3,040,698	\$ 3,058,381	\$ 2,928,426	\$ 2,999,414	\$ 3,138,639	\$ 3,517,782	\$ 3,490,117	\$ 3,442,632	\$ 2,563,831
<b>Revenue</b>													
<b>Fee Revenue</b>													
Application Fee	\$ 1,500	\$ -	\$ 1,500	\$ 4,500	\$ -	\$ 1,500	\$ -	\$ 1,500	\$ 5,000	\$ 3,000	\$ -	\$ 1,500	\$ 20,000
Agency Fee	6,878	-	-	624,639	53,827	-	55,835	218,675	467,039	-	-	-	\$ 1,426,892
Administrative Fee	-	500	-	4,000	-	-	16,000	-	-	-	-	-	20,500
Modification Fee	-	-	-	-	-	-	-	-	500	-	-	1,000	1,500
<b>Subtotal - Fee Revenue</b>	<b>\$ 8,378</b>	<b>\$ 500</b>	<b>\$ 1,500</b>	<b>\$ 633,139</b>	<b>\$ 53,827</b>	<b>\$ 1,500</b>	<b>\$ 71,835</b>	<b>\$ 220,175</b>	<b>\$ 472,539</b>	<b>\$ 3,000</b>	<b>\$ -</b>	<b>\$ 2,500</b>	<b>\$ 1,468,892</b>
<b>Other Revenue</b>													
Project Benefit Agreement	\$ 100,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100,000
9% LIHTC Fee	-	-	10,000	-	-	-	-	-	-	-	-	-	10,000
Interest Income	1,901	1,754	1,842	2,214	2,296	2,031	2,375	2,288	2,267	2,638	2,556	2,562	26,724
CRC	6,333	-	-	-	-	-	-	-	-	-	-	26,527	32,860
NYS BIC	-	-	-	-	-	-	-	-	-	-	-	-	-
Misc	-	-	-	-	-	946	-	-	-	-	-	-	946
<b>Subtotal - Other Revenue</b>	<b>\$ 108,234</b>	<b>\$ 1,754</b>	<b>\$ 11,842</b>	<b>\$ 2,214</b>	<b>\$ 2,296</b>	<b>\$ 2,977</b>	<b>\$ 2,375</b>	<b>\$ 2,288</b>	<b>\$ 2,267</b>	<b>\$ 2,638</b>	<b>\$ 2,556</b>	<b>\$ 29,089</b>	<b>\$ 170,530</b>
<b>Total - Revenue</b>	<b>\$ 116,612</b>	<b>\$ 2,254</b>	<b>\$ 13,342</b>	<b>\$ 635,353</b>	<b>\$ 56,123</b>	<b>\$ 4,477</b>	<b>\$ 74,210</b>	<b>\$ 222,463</b>	<b>\$ 474,806</b>	<b>\$ 5,638</b>	<b>\$ 2,556</b>	<b>\$ 31,589</b>	<b>\$ 1,639,422</b>
<b>Expenditures</b>													
Management Contract	\$ -	\$ -	\$ -	\$ 131,409	\$ 32,852	\$ 32,852	\$ -	\$ 65,704	\$ 32,852	\$ 32,852	\$ 32,852	\$ 32,852	\$ 394,225
Consulting Fees	-	-	-	-	-	18,040	1,960	-	-	-	-	-	20,000
Strategic Activities	-	-	-	-	-	-	-	-	-	-	-	-	-
Website Maintance	-	-	-	-	-	-	-	-	-	-	-	-	-
Audits	-	-	-	4,500	2,500	-	-	-	-	-	-	-	7,000
Agency Counsel	42,000	-	-	-	-	-	-	-	-	-	-	-	42,000
ED Support	-	-	-	62,500	-	62,500	-	-	62,500	-	-	62,500	250,000
Sub-lease AHCC	-	-	17,714	-	-	20,043	-	17,406	-	-	17,005	-	72,168
NYS BIC	-	-	-	-	-	-	-	-	-	-	-	-	-
D & O Insurance	-	-	-	-	1,564	-	-	-	-	-	-	-	1,564
Misc.	140	-	1,000	1,101	124	996	316	127	266	452	184	307	5,013
Legal Expenses	30,310	-	-	-	-	-	-	-	-	-	-	17,463	47,773
Other Expenses	-	-	-	20	1,400	-	946	-	45	-	-	15	2,426
<b>Total - Expenditures</b>	<b>\$ 72,450</b>	<b>\$ -</b>	<b>\$ 18,714</b>	<b>\$ 199,530</b>	<b>\$ 38,440</b>	<b>\$ 134,432</b>	<b>\$ 3,222</b>	<b>\$ 83,237</b>	<b>\$ 95,663</b>	<b>\$ 33,304</b>	<b>\$ 50,041</b>	<b>\$ 113,137</b>	<b>\$ 842,169</b>
<b>Ending Balance</b>	<b>\$ 2,607,993</b>	<b>\$ 2,610,247</b>	<b>\$ 2,604,875</b>	<b>\$ 3,040,698</b>	<b>\$ 3,058,381</b>	<b>\$ 2,928,426</b>	<b>\$ 2,999,414</b>	<b>\$ 3,138,639</b>	<b>\$ 3,517,782</b>	<b>\$ 3,490,117</b>	<b>\$ 3,442,632</b>	<b>\$ 3,361,084</b>	<b>\$ 3,361,084</b>

# City of Albany IDA

Fee Detail by Month

December 2019

	Name	Application Fee	Agency Fee	Administration Fee	Modification Fee	TOTAL FEE
<i>January</i>	16 Sheridan Avenue LLC	\$ 1,500	\$ -	\$ -	\$ -	\$ 1,500
	420 Broadway, LLC	-	6,878	-	-	6,878
	<b>TOTAL</b>	<b>\$ 1,500</b>	<b>\$ 6,878</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 8,378</b>
<i>February</i>	4-6 Sheridan of Albany, LLC	\$ -	\$ -	\$ 500	\$ -	\$ 500
						-
	<b>TOTAL</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 500</b>	<b>\$ -</b>	<b>\$ 500</b>
<i>March</i>	Makura Inc.	\$ 1,500	\$ -	\$ -	\$ -	\$ 1,500
						-
	<b>TOTAL</b>	<b>\$ 1,500</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,500</b>
<i>April</i>	Laughlin Dawn, LLC	\$ -	\$ 516,874	\$ -		\$ 516,874
	16 Sheridan Avenue, LLC		107,765			107,765
	TRPS2, LLC	1,500		4,000		
	705 Broadway Hotel, LLC	1,500				
	Redburn Development	1,500				
	<b>TOTAL</b>	<b>\$ 4,500</b>	<b>\$ 624,639</b>	<b>\$ 4,000</b>	<b>\$ -</b>	<b>\$ 633,139</b>
<i>May</i>	Morris Place, LLC	\$ -	\$ 53,827	\$ -	\$ -	\$ 53,827
						-
	<b>TOTAL</b>	<b>\$ -</b>	<b>\$ 53,827</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 53,827</b>
<i>June</i>	Harmony Hills South LLC	\$ 1,500	\$ -	\$ -	\$ -	\$ 1,500
				-		-
	<b>TOTAL</b>	<b>\$ 1,500</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,500</b>

# City of Albany IDA

Fee Detail by Month

December 2019

	Name	Application Fee	Agency Fee	Administration Fee	Modification Fee	TOTAL FEE
<i>July</i>	705 Broadway Hotel LLC	\$ -	\$ -	\$ 16,000	\$ -	\$ 16,000
	TRPS2 LLC		55,835		-	55,835
	<b>TOTAL</b>	\$ -	\$ 55,835	\$ 16,000	\$ -	\$ 71,835
<i>August</i>	Mukura Inc.	\$ -	\$ 66,600	\$ -	\$ -	\$ 66,600
	705 Broadway Hotel, LLC		152,075			152,075
	1211 Western Ave, LLC	1,500				1,500
	<b>TOTAL</b>	\$ 1,500	\$ 218,675	\$ -	\$ -	\$ 220,175
<i>September</i>	76 North Pearl, LLC	\$ -	\$ 180,433	\$ -	\$ -	\$ 180,433
	Harmony Hills South, LLC		231,350			231,350
	Laughlin Dawn		55,256			
	39 Columbia St. Assoc, LLC	\$ 1,500				
	Eleftheria Properties	\$ 500				
	45 Columbia St Assoc, LLC	1,500				
	60 State Street, LLC				\$ 500	
	427 Washington Ave, LLC	1,500				
	<b>TOTAL</b>	\$ 5,000	\$ 467,039	\$ -	\$ 500	\$ 472,539
<i>October</i>	563 New Scotland Ave, LLC	\$ 1,500		\$ -	\$ -	\$ 1,500
	Clinton Square Studios, LLC	1,500			-	1,500
	<b>TOTAL</b>	\$ 3,000	\$ -	\$ -	\$ -	\$ 3,000
<i>November</i>		\$ -	\$ -	\$ -	\$ -	\$ -
					-	-
	<b>TOTAL</b>	\$ -	\$ -	\$ -	\$ -	\$ -
<i>December</i>	Columbia 425, NS LLC	\$ -		\$ -	\$ 500	\$ 500
	Broadway 915, LLC	1,500		-	-	1,500.00
	39 Sheridan LLC				500	500.00
	<b>TOTAL</b>	\$ 1,500	\$ -	\$ -	\$ 1,000	\$ 2,500
	<b>2019 TOTAL</b>	\$ 20,000	\$ 1,426,892	\$ 20,500	\$ 1,500	\$ 1,468,892

**TO:** City of Albany Industrial Development Finance Committee  
**FROM:** City of Albany Industrial Development Agency Staff  
**RE:** 563 New Scotland Ave, LLC - IDA Application Summary  
**DATE:** January 7, 2019

**Applicant:** 563 New Scotland Ave, LLC

**Managing Members (% of Ownership):** Ryan Jankow (100%) – Applicant indicated the LLC may incorporate additional investors and the final membership will be updated prior to closing.

**Project Location:** 563 New Scotland Ave, Albany, NY

**Project Description:** The Project proposes to construct 188 residential market rate apartment units in four (4) buildings on 3.31 acres of land totaling +/- 300,000 SF. Seven (7) existing underutilized structures will be demolished. There will be a clubhouse/office portion of one building, common areas, parking for +/- 255 cars and approx. 15,000 SF of ground floor retail/commercial space available.

**Estimated Project Real Property Benefit Summary (20 Years):**

	Status Quo Taxes (no project) Homestead Rate	Project Impact (PILOT Payments)	Net Benefit
Revenue Gain to Taxing Jurisdictions	\$3,750,484	\$12,215,185	\$8,464,701

	Current Value	Anticipated Future Value*	Net Increase
Property Value Increase	\$2,851,263	\$21,900,000	\$19,048,737

*\*Project Impact Assessed Value based on letter from the City of Albany Assessor dated 03-26-19*

At the end of the PILOT period, the project is anticipated to make annual tax payments to the taxing jurisdictions of \$1,689,535 based on an assessed value of **\$21,900,000** and an annual tax rate of \$77.15.

**Estimated Investment:** \$39,780,000

**Community Benefits:** Please see the attached CAIDA Project Evaluation and Assistance Framework Staff Analysis for more detail on the Community Benefits metrics below.

- *Revitalization:* The project is located in an area included within a Neighborhood Plan.
- *Identified Priority:* The project is considered a community catalyst as it is expected to contribute to contribute to the Albany 2030 Plan.
- *Identified Growth Area:* The proposed project supports the creation, retention or expansion of facilities or the creation and/or retention of permanent private sector jobs in an existing City of Albany industry cluster.

- *Job Creation:* The project is committing to the creation of thirteen (13) permanent, eighty five (85) construction jobs and the retention of two (2) existing jobs.
- *Investment:* The project is anticipating a project cost of more than \$39.7 million, the applicant has also committed to the Community Commitment of City of Albany Labor and Regional Labor guarantee.

#### Employment Impact Analysis:

##### Temporary (Construction) Impact

Impact Type	Employment	Labor Income (\$)	Value Added (\$)	Output (\$)
<b>Direct Effect</b>	255.00	\$12,897,088.09	\$16,789,942.64	\$31,385,408.71
<b>Indirect Effect</b>	69.37	\$4,123,925.27	\$6,205,561.93	\$10,427,658.05
<b>Induced Effect</b>	50.62	\$2,696,387.97	\$4,819,259.84	\$7,676,772.62
<b>Total Effect</b>	374.99	\$19,717,401.32	\$27,814,764.41	\$49,489,839.38

##### Permanent (Operations) Impact

Impact Type	Employment	Labor Income (\$)	Value Added (\$)	Output (\$)
<b>Direct Effect</b>	9.51	\$314,484.07	\$336,001.94	\$500,433.68
<b>Indirect Effect</b>	0.63	\$41,039.97	\$67,733.73	\$111,902.08
<b>Induced Effect</b>	0.96	\$51,228.70	\$91,540.83	\$145,896.52
<b>Total Effect</b>	11.10	\$406,752.74	\$495,276.50	\$758,232.28

*\*Excerpt from IMPLAN Economic Impact Analysis 11.8.19*

#### Employment Impact:

- Projected Permanent: 13 jobs
- Projected Retained: 2 jobs
- Projected Construction: 85 jobs

**Type of Financing:** Straight Lease

**Amount of Bonds Requested:** None

**Estimated Total Purchases Exempt from Sales Tax:** \$15,000,000

**Estimated Total Mortgage Amount:** not to exceed \$33,813,000

**Requested PILOT:** The proposal entails the Applicant entering into three (3) separate PILOT agreements with the IDA consistent with CAIDA Project Evaluation and Assistance Framework abatement percentages.

**Third Party Review:** In response to the Board's request, a third party evaluation of the appropriateness of the applicant's PILOT request has been received and reviewed by staff. The third party determined that the assumptions included within the application in addition to the abatement requested were within reasonable parameters.

Cash on cash return is a simple and straightforward method to calculate return on investments that involve long-term debt borrowing. We use this as our baseline analysis metric to keep comparisons consistent and variables limited across projects. The third-party analysis also relies on the internal rate of return method due to its advantage of including the time value of money and property appreciation. Calculating the internal rate of return is more complicated because it requires the projection future of cash flows of the investment, including the sale of the investment at the end of the holding period. This analysis provides a more in-depth and project-specific measurement of anticipated return to review in conjunction with the straightforward cash-on-cash method.

**Estimated Value of Tax Exemptions:**

- NYS Sales and Compensating Use Tax: \$1,200,000
- Mortgage Recording Taxes: \$330,000
- Real Property Taxes: \$18,183,474
- Other: N/A

**Baseline Requirements:**

- Application: Complete
- Meets NYS/CAIDA Requirements: Yes
- Albany 2030 Alignment:
  - Increase job opportunities for all residents.
  - Encourage investment in urban land and buildings for employment and housing.
- Planning Approval Status: Full Planning Board approval in *August 2019*
- Meets Project Use Definition: Yes
- Meets “But For” Requirement: Yes, affidavit signed.

**Cost Benefit Analysis:** See attached Exhibit A: Description of The Project Evaluation and Expected Public Benefits.

**Estimated IDA Fee**

- Fee amount: \$397,800

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**CAIDA Mission:**The purpose of the Industrial Development Agency is to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities. The Agency aims to protect and promote the health of the inhabitants of the City of Albany by the conservation, protection and improvement of the natural and cultural or historic resources and environment and to control land, sewer, water, air, noise or general environmental pollution derived from the operation of industrial development.

**CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY  
LEASE/LEASEBACK TRANSACTION  
563 NEW SCOTLAND AVE LLC PROJECT**

**I. PROJECT IDENTIFICATION:**

1. Project Applicant: 563 New Scotland Ave LLC, a New York State limited liability company (the “Company”).
2. The Project:
  - (A) Acquisition of Land and Construction of Facility: the acquisition of an interest in approximately 21 parcels of land containing in the aggregate approximately 3.65 acres located at 563 New Scotland Avenue (tax map number 64.81-1-56), 583 New Scotland Avenue (tax map number 64.81-1-67), 301 South Allen Street (tax map number 64.81-1-63), 313 South Allen Street (tax map number 64.81-1-64), 311 South Allen Street (tax map number 64.81-1-65), 319 South Allen Street (tax map number 64.81-1-66), 90 Onderdonk Avenue (tax map number 64.81-1-47), 92 Onderdonk Avenue (tax map number 64.81-1-48), 94 Onderdonk Avenue (tax map number 64.81-1-49), 95 Onderdonk Avenue (tax map number 64.81-1-70), 96 Onderdonk Avenue (tax map number 64.81-1-50), 97 Onderdonk Avenue (tax map number 64.81-1-37), 98 Onderdonk Avenue (tax map number 64.81-1-51), 99 Onderdonk Avenue (tax map number 64.81-1-38), 100 Onderdonk Avenue (tax map number 64.81-1-52), 101 Onderdonk Avenue (tax map number 64.81-1-39), 102 Onderdonk Avenue (tax map number 64.81-1-53), 104 Onderdonk Avenue (tax map number 64.81-1-54), 111 Onderdonk Avenue (tax map number 64.81-1-40), 116 Onderdonk Avenue (tax map number 64.81-1-55) and Onderdonk Avenue (tax map number 64.81-1-72) in the City of Albany, Albany County, New York (collectively, the “Land”), together with seven (7) buildings located thereon (collectively, the “Existing Facility”).
  - (B) Demolition/Construction: the demolition of the Existing Facility and the construction on the Land of four (4) buildings containing in the aggregate approximately 300,000 square feet (collectively, the “Facility”).
  - (C) Equipment component: the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the “Equipment”) (the Land, the Existing Facility, the Facility, and the Equipment being collectively referred to as the “Project Facility”).
  - (D) Lease: The Project Facility will be an approximately 188 unit residential apartment complex, commercial/retail space and approximately 255 parking spaces to be owned and operated by the Company and any other directly and indirectly related activities.

**II. PRIOR ACTION ON PROJECT:**

3. Environmental Proceedings:
  - (A) SEQR classification of the Project: confirming (a) the City of Albany Planning Board’s and the City of Albany Board of Zoning Appeals determinations that the Project will not result in any significant adverse environmental impacts and (b) the issuance of a “negative declaration” by each.
  - (B) SEQR Lead Agency: City of Albany Planning Board and City of Albany Board of Zoning Appeals.
  - (C) Date of Lead Agency Action: Planning Board: August 27, 2019; Zoning Board: June 13, 2019.
  - (D) Date of Agency Action: January 16, 2020.

4. Inducement Proceedings:
  - (A) Public Hearing Resolution: adopted on October 17, 2019.
  - (B) Public Hearing:
    - (1) Mailed to Affected Taxing Jurisdictions: November 26, 2019.
    - (2) Date Posted: November 27, 2019.
    - (3) Date Published: November 30, 2019 in the Times Union.
    - (4) Date of Public Hearing: December 11, 2019.
    - (5) Location of Public Hearing: offices of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York.

### **III. PROPOSED AGENCY ACTION ON JANUARY 16, 2020:**

5. SEQR Resolution: Confirming SEQR Resolution.
6. Commercial/Retail Findings Resolution: Determining Project is a “commercial project”. Retail - located in distressed area.
7. PILOT Deviation Resolution Project: See 11(B) below for specifics.
8. Approving Resolution: Approving the Project and the proposed financial assistance.
9. Mayor’s Approval: Anticipated First Quarter, 2020.

### **IV. DETAILS OF PROPOSED STRAIGHT LEASE TRANSACTIONS:**

10. Relationship of Agency to Company: The Agency will acquire, construct and install the Project Facility and lease the Project Facility to the Company pursuant to the Lease Agreement.
11. Business Terms:
  - (A) The Agency fee is \$397,800.00 (1% of Project costs of \$39,780,000.00).
  - (B) The Agency and the Company will enter into three phase payment in lieu of tax agreements which provides for a 20-year term for each phase, consistent with the Agency’s Project Evaluation and Assistance Framework.
12. Basic Documents:
  - (A) Underlying Lease.
  - (B) License Agreement.
  - (C) Bill of Sale to Agency.
  - (D) Lease Agreement.
  - (E) Payment in Lieu of Tax Agreement.
  - (F) Section 875 GML Recapture Agreement.
  - (G) Uniform Agency Project Agreement.
13. Proposed Closing Date: First Quarter, 2020.
14. Agency Special Counsel: Hodgson Russ LLP, Albany, New York.

**RESOLUTION CONFIRMING SEQR DETERMINATION  
563 NEW SCOTLAND AVE LLC PROJECT**

A regular meeting of City of Albany Industrial Development Agency (the “Agency”) was convened in public session at the office of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York on January 16, 2020 at 12:15 o’clock p.m., local time.

The meeting was called to order by the (Vice) Chair of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:**

Tracy L. Metzger	Chair
Susan Pedo	Vice Chair
Darius Shahinfar	Treasurer
Lee E. Eck, Jr.	Secretary
Dominick Calsolaro	Member
Jahkeen Hoke	Member
Robert T. Schofield	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Sarah Reginelli	Chief Executive Officer
Mark Opalka	Chief Financial Officer
Ashley Mohl	Director of Development, Capitalize Albany Corporation
Andrew Corcione	Senior Economic Developer II, Capitalize Albany Corporation
Michael Bohne	Communications & Marketing, Capitalize Albany Corporation
Tammie Fanfa	Executive Assistant, Capitalize Albany Corporation
Amy Lavine, Esq.	Agency Counsel
A. Joseph Scott, III, Esq.	Special Agency Counsel

The following resolution was offered by \_\_\_\_\_, seconded by \_\_\_\_\_, to wit:

Resolution No. 0120-

**RESOLUTION CONCURRING IN THE DETERMINATION BY CITY OF ALBANY  
PLANNING BOARD AND CITY OF ALBANY BOARD OF ZONING APPEALS,  
EACH AS LEAD AGENCY FOR THE ENVIRONMENTAL REVIEW OF THE 563  
NEW SCOTLAND AVE LLC PROPOSED PROJECT.**

WHEREAS, City of Albany Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 325 of the 1974 Laws of New York, as amended, constituting Section 903-a

of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

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

WHEREAS, in September, 2019, 563 New Scotland Ave LLC, a New York State limited liability company (the “Company”), submitted an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in approximately 21 parcels of land containing in the aggregate approximately 3.65 acres located at 563 New Scotland Avenue (tax map number 64.81-1-56), 583 New Scotland Avenue (tax map number 64.81-1-67), 301 South Allen Street (tax map number 64.81-1-63), 313 South Allen Street (tax map number 64.81-1-64), 311 South Allen Street (tax map number 64.81-1-65), 319 South Allen Street (tax map number 64.81-1-66), 90 Onderdonk Avenue (tax map number 64.81-1-47), 92 Onderdonk Avenue (tax map number 64.81-1-48), 94 Onderdonk Avenue (tax map number 64.81-1-49), 95 Onderdonk Avenue (tax map number 64.81-1-70), 96 Onderdonk Avenue (tax map number 64.81-1-50), 97 Onderdonk Avenue (tax map number 64.81-1-37), 98 Onderdonk Avenue (tax map number 64.81-1-51), 99 Onderdonk Avenue (tax map number 64.81-1-38), 100 Onderdonk Avenue (tax map number 64.81-1-52), 101 Onderdonk Avenue (tax map number 64.81-1-39), 102 Onderdonk Avenue (tax map number 64.81-1-53), 104 Onderdonk Avenue (tax map number 64.81-1-54), 111 Onderdonk Avenue (tax map number 64.81-1-40), 116 Onderdonk Avenue (tax map number 64.81-1-55) and Onderdonk Avenue (tax map number 64.81-1-72) in the City of Albany, Albany County, New York (collectively, the “Land”), together with seven (7) buildings located thereon (collectively, the “Existing Facility”), (2) the demolition of the Existing Facility, (3) the construction on the Land of four (4) buildings containing in the aggregate approximately 300,000 square feet (collectively, the “Facility”) and (4) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (the “Equipment”) (the Land, the Existing Facility, the Facility, and the Equipment being collectively referred to as the “Project Facility”), all of the foregoing to constitute an approximately 188 unit residential apartment complex, commercial/retail space and approximately 255 parking spaces to be owned and operated by the Company and any other directly and indirectly related activities; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on October 17, 2019 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance

being contemplated by the Agency with respect to the Project, to be mailed on November 26, 2019 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on November 27, 2019 on a public bulletin board located at Albany City Hall located at 24 Eagle Street in the City of Albany, Albany County, New York as well as on the Agency's website, (C) caused notice of the Public Hearing to be published on November 30, 2019 in The Times Union, a newspaper of general circulation available to the residents of City of Albany, Albany County, New York, (D) conducted the Public Hearing on December 11, 2019 at 12:00 o'clock p.m., local time at offices of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York, and (E) prepared a report of the Public Hearing (the "Public Hearing Report") fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), the Agency has been informed that (1) the City of Albany Planning Board (the "Planning Board") and the City of Albany Board of Zoning Appeals (the "Zoning Board") each designated themselves as "lead agency" with respect to the Project, (2) the Planning Board issued a Determination of Non Significance on August 27, 2019 (the "Planning Board Negative Declaration"), attached hereto as Exhibit A, determining that the acquisition, reconstruction, renovation and installation of the Project Facility will not have a "significant effect on the environment", and (3) the Zoning Board issued a Determination of Non Significance on June 13, 2019 (the "Zoning Board Negative Declaration"), attached hereto as Exhibit B, determining that the acquisition, reconstruction, renovation and installation of the Project Facility will not have a "significant effect on the environment"; and

WHEREAS, the Agency is an "involved agency" with respect to the Project and the Agency now desires to concur in the determination by the Planning Board and the Zoning Board, each as "lead agency" with respect to the Project, to acknowledge receipt of a copy of the Planning Board Negative Declaration and the Zoning Board Negative Declaration and to indicate whether the Agency has any information to suggest that either the Planning Board or the Zoning Board were incorrect in determining that the Project will not have a "significant effect on the environment" pursuant to SEQRA and, therefore, that no environmental impact statement need be prepared with respect to the Project;

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

Section 1. The Agency has received copies of, and has reviewed, the Application, the environmental assessment forms from both the Planning Board and the Zoning Board, the Planning Board Negative Declaration and the Zoning Board Negative Declaration (collectively, the "Reviewed Documents") and, based upon said Reviewed Documents, the Agency hereby ratifies and concurs in the designation of the Planning Board and the Zoning Board, each as "lead agency" with respect to the Project under SEQRA (as such quoted term is defined in SEQRA).

Section 2. The Agency hereby determines that the Agency has no information to suggest that the Planning Board and the Zoning Board were incorrect in determining that the Project will not have a "significant effect on the environment" pursuant to the SEQRA and, therefore, that environmental impact statement need not be prepared with respect to the Project (as such quoted phrase is used in SEQRA).

Section 3. The members of the Agency are hereby directed to notify the Planning Board and the Zoning Board of the concurrence by the Agency that the Planning Board and the Zoning Board, each shall be the "lead agency" with respect to the Project, and to further indicate to the Planning Board and the

Zoning Board that the Agency has no information to suggest that the Planning Board or the Zoning Board were incorrect in their respective determinations contained in the Planning Board Negative Declaration and the Zoning Board Negative Declaration.

Section 4. This Resolution shall take effect immediately.

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

Tracy L. Metzger	VOTING	_____
Susan Pedo	VOTING	_____
Darius Shahinfar	VOTING	_____
Lee E. Eck, Jr.	VOTING	_____
Dominick Calsolaro	VOTING	_____
Jahkeen Hoke	VOTING	_____
Robert T. Schofield	VOTING	_____

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK                    )  
  ) SS.:  
COUNTY OF ALBANY                    )

I, the undersigned (Assistant) Secretary of City of Albany Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on January 16, 2020 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 16<sup>th</sup> day of January, 2020.

---

(Assistant) Secretary

(SEAL)

EXHIBIT A

PLANNING BOARD NEGATIVE DECLARATION

- SEE ATTACHED -

**Full Environmental Assessment Form**  
**Part 3 - Evaluation of the Magnitude and Importance of Project Impacts**  
**and**  
**Determination of Significance**

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

**Reasons Supporting This Determination:**

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

Based on the evidence supplied in the applications, supporting documentation, and conditions referenced in the corresponding Notifications of Local Action for Project #00178 and Applications AV #0044, DPR #0061, and DR #0052, 0053, 0054, 0055, 0056, 0057, 0058, the City of Albany Planning Board concludes that the proposed action will not result in any significant adverse environmental impacts.

**Determination of Significance - Type 1 and Unlisted Actions**

SEQR Status: ☐ Type 1 ☒ Unlisted

Identify portions of EAF completed for this Project: ☒ Part 1 ☒ Part 2 ☒ Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information  
Building Elevations, Floor Plans, Geotechnical Report, Operation and Maintenance Manual, Photosimulations, Sewer Engineer Report, Shadow Study,  
Site Plan, Stormwater Pollution Prevention Plan and Stormwater Management Report, Traffic Study, Water Engineer Report

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the  
City of Albany Planning Board as lead agency that:

☒ A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

☐ B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.7(d)).

☐ C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: 563 New Scotland Avenue

Name of Lead Agency: City of Albany Planning Board (Uncoordinated Review)

Name of Responsible Officer in Lead Agency: Albert DeSalvo

Title of Responsible Officer: City of Albany Planning Board Chair

Signature of Responsible Officer in Lead Agency: *Albert R DeSalvo* Date: August 27, 2019

Signature of Preparer (if different from Responsible Officer) *Dan Powell* Date: August 27, 2019

**For Further Information:**

Contact Person: City of Albany Department of Planning and Development

Address: 200 Henry Johnson Boulevard, Suite 3, Albany, NY 12210

Telephone Number: 518-465-6066

E-mail: dpd@albanyny.gov

**For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:**

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

**PRINT FULL FORM**

Page 2 of 2

EXHIBIT B

ZONING BOARD NEGATIVE DECLARATION

- SEE ATTACHED -

Agency Use Only (If Applicable)	
Project :	
Date :	

**Full Environmental Assessment Form**  
**Part 3 - Evaluation of the Magnitude and Importance of Project Impacts**  
**and**  
**Determination of Significance**

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

**Reasons Supporting This Determination:**

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

The City of Albany Board of Zoning Appeals concludes that the impacts of the proposed project will not result in any significant adverse environmental impacts.

**Determination of Significance - Type 1 and Unlisted Actions**

SEQR Status: ☐ Type 1 ☒ Unlisted

Identify portions of EAF completed for this Project: ☒ Part 1 ☒ Part 2 ☒ Part 3

FEAF 2019

Upon review of the information recorded on this EAF, as noted, plus this additional support information  
Application forms, site plans, floor plans, shadow study, and photographs

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the  
City of Albany Board of Zoning Appeals as lead agency that:

☒ A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

☐ B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.7(d)).

☐ C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: 563 New Scotland Avenue

Name of Lead Agency: City of Albany Board of Zoning Appeals

Name of Responsible Officer in Lead Agency: Richard Berkley

Title of Responsible Officer: Chair of the City of Albany Board of Zoning Appeals

Signature of Responsible Officer in Lead Agency: 

Date: 6/13/2019

Signature of Preparer (if different from Responsible Officer): 

Date: 6/14/2019

**For Further Information:**

Contact Person: City of Albany Department of Planning and Development

Address: 200 Henry Johnson Boulevard | Suite 3, Albany, NY 12210

Telephone Number: 518-465-6066

E-mail: [dpt@albanyny.gov](mailto:dpt@albanyny.gov)

**For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:**

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

**PRINT FULL FORM**

Page 2 of 2

**COMMERCIAL/RETAIL FINDINGS RESOLUTION  
563 NEW SCOTLAND AVE LLC PROJECT**

A regular meeting of City of Albany Industrial Development Agency (the “Agency”) was convened in public session at the office of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York on January 16, 2020 at 12:15 o’clock p.m., local time.

The meeting was called to order by the (Vice) Chair of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:**

Tracy L. Metzger	Chair
Susan Pedo	Vice Chair
Darius Shahinfar	Treasurer
Lee E. Eck, Jr.	Secretary
Dominick Calsolaro	Member
Jahkeen Hoke	Member
Robert T. Schofield	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Sarah Reginelli	Chief Executive Officer
Mark Opalka	Chief Financial Officer
Ashley Mohl	Director of Development, Capitalize Albany Corporation
Andrew Corcione	Senior Economic Developer II, Capitalize Albany Corporation
Michael Bohne	Communications & Marketing, Capitalize Albany Corporation
Tammie Fanfa	Executive Assistant, Capitalize Albany Corporation
Amy Lavine, Esq.	Agency Counsel
A. Joseph Scott, III, Esq.	Special Agency Counsel

The following resolution was offered by \_\_\_\_\_, seconded by \_\_\_\_\_, to wit:

Resolution No. 0120-

**RESOLUTION (A) DETERMINING THAT THE PROPOSED 563 NEW SCOTLAND AVE LLC (THE “COMPANY”) PROJECT IS A COMMERCIAL PROJECT AND (B) MAKING CERTAIN FINDINGS REQUIRED UNDER THE GENERAL MUNICIPAL LAW.**

WHEREAS, City of Albany Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 325 of the 1974 Laws of New York, as amended, constituting Section 903-a

of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of commercial, manufacturing and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

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

WHEREAS, in September, 2019, 563 New Scotland Ave LLC, a New York State limited liability company (the “Company”) submitted an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in approximately 21 parcels of land containing in the aggregate approximately 3.65 acres located at 563 New Scotland Avenue (tax map number 64.81-1-56), 583 New Scotland Avenue (tax map number 64.81-1-67), 301 South Allen Street (tax map number 64.81-1-63), 313 South Allen Street (tax map number 64.81-1-64), 311 South Allen Street (tax map number 64.81-1-65), 319 South Allen Street (tax map number 64.81-1-66), 90 Onderdonk Avenue (tax map number 64.81-1-47), 92 Onderdonk Avenue (tax map number 64.81-1-48), 94 Onderdonk Avenue (tax map number 64.81-1-49), 95 Onderdonk Avenue (tax map number 64.81-1-70), 96 Onderdonk Avenue (tax map number 64.81-1-50), 97 Onderdonk Avenue (tax map number 64.81-1-37), 98 Onderdonk Avenue (tax map number 64.81-1-51), 99 Onderdonk Avenue (tax map number 64.81-1-38), 100 Onderdonk Avenue (tax map number 64.81-1-52), 101 Onderdonk Avenue (tax map number 64.81-1-39), 102 Onderdonk Avenue (tax map number 64.81-1-53), 104 Onderdonk Avenue (tax map number 64.81-1-54), 111 Onderdonk Avenue (tax map number 64.81-1-40), 116 Onderdonk Avenue (tax map number 64.81-1-55) and Onderdonk Avenue (tax map number 64.81-1-72) in the City of Albany, Albany County, New York (collectively, the “Land”), together with seven (7) buildings located thereon (collectively, the “Existing Facility”), (2) the demolition of the Existing Facility, (3) the construction on the Land of four (4) buildings containing in the aggregate approximately 300,000 square feet (collectively, the “Facility”) and (4) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (the “Equipment”) (the Land, the Existing Facility, the Facility, and the Equipment being collectively referred to as the “Project Facility”), all of the foregoing to constitute an approximately 188 unit residential apartment complex, commercial/retail space and approximately 255 parking spaces to be owned and operated by the Company and any other directly and indirectly related activities; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on October 17, 2019 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance

being contemplated by the Agency with respect to the Project, to be mailed on November 26, 2019 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on November 27, 2019 on a public bulletin board located at Albany City Hall located at 24 Eagle Street in the City of Albany, Albany County, New York as well as on the Agency's website, (C) caused notice of the Public Hearing to be published on November 30, 2019 in The Times Union, a newspaper of general circulation available to the residents of City of Albany, Albany County, New York, (D) conducted the Public Hearing on December 11, 2019 at 12:00 o'clock p.m., local time at offices of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York, and (E) prepared a report of the Public Hearing (the "Public Hearing Report") fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Agency on January 16, 2020 (the "Resolution Confirming SEQR Determination"), the Agency (A) concurred in the determination that the City of Albany Planning Board (the "Planning Board") and the City of Albany Board of Zoning Appeals (the "Zoning Board") are each the "lead agency" with respect to SEQRA, (B) acknowledged receipt of a negative declaration from the Planning Board issued on August 27, 2019 (the "Planning Board Negative Declaration"), in which the Planning Board determined that the Project would not have a significant adverse environmental impact on the environment, and therefore, that an environmental statement need not be prepared with respect to the Project and (C) acknowledged receipt of a negative declaration from the Zoning Board issued on June 13, 2019 (the "Zoning Board Negative Declaration"), in which the Zoning Board determined that the Project would not have a significant adverse environmental impact on the environment, and therefore, that an environmental statement need not be prepared with respect to the Project; and

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

WHEREAS, to aid the Agency in determining whether the Project qualifies for Financial Assistance as a commercial project within the meaning of the Act, the Agency has reviewed the following (collectively, the "Project Qualification Documents"): (A) the Application, including the attached Cost Benefit Analysis; and (B) Albany 2030 Alignment; and

WHEREAS, the Agency has given due consideration to the Project Qualification Documents, and to representations by the Company that although the Project constitutes a project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost, the Project is located within census tract 17 in the City of Albany which is contiguous to census tract 5.02, which is considered to be a distressed census tract and therefore the Project is in a "highly distressed area", as that term is defined in Section 854(18) of the Act; and

WHEREAS, pursuant to Section 862(2)(b) of the Act, the Agency would be authorized to provide financial assistance in respect of the Project provided that the obligation of the Agency to proceed with the Project was subject to certain conditions, including (1) following compliance with the procedural

requirements of Section 859-a of the Act, a finding by the Agency that the Project would preserve permanent, private sector jobs in the State of New York or increase the overall number of permanent, private sector jobs in the State of New York and (2) confirmation by the Mayor of the City of Albany of the proposed action by the Agency with respect to the Project; and

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

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

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

A. The Project is located in an area having a mixture of residential, not-for-profit, commercial, retail, and service uses.

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

- Encourage investment in urban land and buildings for employment and housing
- Increase job opportunities for all residents

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

D. The Company has informed representatives of the Agency that the Project is expected to create approximately 15 full time permanent, private sector jobs.

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

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

A. That although the Project does constitute a project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost, the Project is located in a "highly distressed area" (as defined in the Act).

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

opportunities and assist in preventing economic deterioration in the City of Albany and in the State of New York.

C. That the acquisition, reconstruction, renovation and installation of the Project Facility is essential to the retention of existing employment and the creation of new employment opportunities and is essential to the prevention of economic deterioration of businesses and neighborhoods located in the City of Albany.

D. That the Project constitutes a “commercial” project, within the meaning of the Act.

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

Section 3. Having reviewed the Public Hearing Report, and having considered fully all comments contained therein, and based upon the findings contained in Section 1 above, the Agency hereby determines to proceed with the Project and the granting of the financial assistance described in the notice of the Public Hearing; provided, however, that no financial assistance shall be provided to the Project by the Agency unless and until the Mayor of the City of Albany, New York, as chief executive officer of the City of Albany, New York, shall, pursuant to Section 862(2)(c) of the Act, confirm the proposed action of the Agency with respect to the Project.

Section 4. This Resolution shall take effect immediately.

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

Tracy L. Metzger	VOTING	_____
Susan Pado	VOTING	_____
Darius Shahinfar	VOTING	_____
Lee E. Eck, Jr.	VOTING	_____
Dominick Calsolaro	VOTING	_____
Jahkeen Hoke	VOTING	_____
Robert T. Schofield	VOTING	_____

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK                    )  
  ) SS.:  
COUNTY OF ALBANY                    )

I, the undersigned (Assistant) Secretary of City of Albany Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on January 16, 2020 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 16<sup>th</sup> day of January, 2020.

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(Assistant) Secretary

(SEAL)

**PILOT DEVIATION APPROVAL RESOLUTION  
563 NEW SCOTLAND AVE LLC PROJECT**

A regular meeting of City of Albany Industrial Development Agency (the “Agency”) was convened in public session at the office of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York on January 16, 2020 at 12:15 o’clock p.m., local time.

The meeting was called to order by the (Vice) Chair of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:**

Tracy L. Metzger	Chair
Susan Pedo	Vice Chair
Darius Shahinfar	Treasurer
Lee E. Eck, Jr.	Secretary
Dominick Calsolaro	Member
Jahkeen Hoke	Member
Robert T. Schofield	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Sarah Reginelli	Chief Executive Officer
Mark Opalka	Chief Financial Officer
Ashley Mohl	Director of Development, Capitalize Albany Corporation
Andrew Corcione	Senior Economic Developer II, Capitalize Albany Corporation
Michael Bohne	Communications & Marketing, Capitalize Albany Corporation
Tammie Fanfa	Executive Assistant, Capitalize Albany Corporation
Amy Lavine, Esq.	Agency Counsel
A. Joseph Scott, III, Esq.	Special Agency Counsel

The following resolution was offered by \_\_\_\_\_, seconded by \_\_\_\_\_, to wit:

Resolution No. 0120-

**RESOLUTION AUTHORIZING A DEVIATION FROM THE AGENCY’S UNIFORM TAX EXEMPTION POLICY IN CONNECTION WITH THE PROPOSED PAYMENT IN LIEU OF TAX AGREEMENT TO BE ENTERED INTO BY THE AGENCY IN CONNECTION WITH THE PROPOSED PROJECT FOR 563 NEW SCOTLAND AVE LLC (THE “COMPANY”).**

WHEREAS, City of Albany Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the

“Enabling Act”) and Chapter 325 of the 1974 Laws of New York, as amended, constituting Section 903-a of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of commercial, manufacturing and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

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

WHEREAS, in September, 2019, 563 New Scotland Ave LLC, a New York State limited liability company (the “Company”), submitted an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in approximately 21 parcels of land containing in the aggregate approximately 3.65 acres located at 563 New Scotland Avenue (tax map number 64.81-1-56), 583 New Scotland Avenue (tax map number 64.81-1-67), 301 South Allen Street (tax map number 64.81-1-63), 313 South Allen Street (tax map number 64.81-1-64), 311 South Allen Street (tax map number 64.81-1-65), 319 South Allen Street (tax map number 64.81-1-66), 90 Onderdonk Avenue (tax map number 64.81-1-47), 92 Onderdonk Avenue (tax map number 64.81-1-48), 94 Onderdonk Avenue (tax map number 64.81-1-49), 95 Onderdonk Avenue (tax map number 64.81-1-70), 96 Onderdonk Avenue (tax map number 64.81-1-50), 97 Onderdonk Avenue (tax map number 64.81-1-37), 98 Onderdonk Avenue (tax map number 64.81-1-51), 99 Onderdonk Avenue (tax map number 64.81-1-38), 100 Onderdonk Avenue (tax map number 64.81-1-52), 101 Onderdonk Avenue (tax map number 64.81-1-39), 102 Onderdonk Avenue (tax map number 64.81-1-53), 104 Onderdonk Avenue (tax map number 64.81-1-54), 111 Onderdonk Avenue (tax map number 64.81-1-40), 116 Onderdonk Avenue (tax map number 64.81-1-55) and Onderdonk Avenue (tax map number 64.81-1-72) in the City of Albany, Albany County, New York (collectively, the “Land”), together with seven (7) buildings located thereon (collectively, the “Existing Facility”), (2) the demolition of the Existing Facility, (3) the construction on the Land of four (4) buildings containing in the aggregate approximately 300,000 square feet (collectively, the “Facility”) and (4) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (the “Equipment”) (the Land, the Existing Facility, the Facility, and the Equipment being collectively referred to as the “Project Facility”), all of the foregoing to constitute an approximately 188 unit residential apartment complex, commercial/retail space and approximately 255 parking spaces to be owned and operated by the Company and any other directly and indirectly related activities; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on October 17, 2019 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”)

pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on November 26, 2019 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on November 27, 2019 on a public bulletin board located at Albany City Hall located at 24 Eagle Street in the City of Albany, Albany County, New York as well as on the Agency's website, (C) caused notice of the Public Hearing to be published on November 30, 2019 in The Times Union, a newspaper of general circulation available to the residents of City of Albany, Albany County, New York, (D) conducted the Public Hearing on December 11, 2019 at 12:00 o'clock p.m., local time at offices of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York, and (E) prepared a report of the Public Hearing (the "Public Hearing Report") fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Agency on January 16, 2020 (the "Resolution Confirming SEQR Determination"), the Agency (A) concurred in the determination that the City of Albany Planning Board (the "Planning Board") and the City of Albany Board of Zoning Appeals (the "Zoning Board") are each the "lead agency" with respect to SEQRA, (B) acknowledged receipt of a negative declaration from the Planning Board issued on August 27, 2019 (the "Planning Board Negative Declaration"), in which the Planning Board determined that the Project would not have a significant adverse environmental impact on the environment, and therefore, that an environmental statement need not be prepared with respect to the Project and (C) acknowledged receipt of a negative declaration from the Zoning Board issued on June 13, 2019 (the "Zoning Board Negative Declaration"), in which the Zoning Board determined that the Project would not have a significant adverse environmental impact on the environment, and therefore, that an environmental statement need not be prepared with respect to the Project; and

WHEREAS, by further resolution adopted by the members of the Agency on January 16, 2020 (the "Commercial/Retail Finding Resolution"), the Agency (A) determined that the Project constituted a "commercial project" within the meaning of the Act, (B) found that although the Project Facility appears to constitute a project where facilities or properties that are primarily used in making the retail sales of goods or services to customers who personally visit such facilities may constitute more than one-third of the costs of the Project, the Agency is authorized to provide financial assistance in respect of the Project pursuant to Section 862(2)(a) of the Act because the Project Facility is located in census tract 17 which is contiguous to census tract 5.02 which is in a highly distressed area, (C) determined, following a review of the Public Hearing Report, that the Project would serve the public purposes of the Act by preserving permanent private sector jobs in the State of New York, and (D) determined that the Agency would proceed with the Project and the granting of the Financial Assistance; provided however, that no financial assistance would be provided to the Project by the Agency unless and until the Mayor of City of Albany, as chief executive officer of City of Albany, New York, pursuant to Section 862(2)(c) of the Act, confirmed the proposed action of the Agency with respect to the Project; and

WHEREAS, in connection with the Project, the Company has requested that the Agency deviate from its uniform tax exemption policy with respect to the terms of the proposed payment in lieu of tax agreement to be entered into by the Agency with respect to the Project Facility, which proposed deviation is outlined in the letter dated January 10, 2020 (the "Amended Pilot Deviation Letter"), a copy of which Amended Pilot Deviation Letter is attached hereto as Exhibit A; and

WHEREAS, pursuant to Section 874(4) of the Act, prior to taking final action on such request for a deviation from the Agency's uniform tax exemption policy, the Agency must give the chief executive officers of the County, the City and each town, village and school district in which the Project Facility is located (collectively, the "Affected Tax Jurisdictions") written notice of the proposed deviation from the Agency's uniform tax exemption policy and the reasons therefor prior to the meeting of the Agency at which the members of the Agency shall consider whether to approve such proposed deviation; and

WHEREAS, on January 10, 2020, the Chief Executive Officer of the Agency sent a copy of the Amended Pilot Deviation Letter to the Affected Tax Jurisdictions to notify the Affected Tax Jurisdictions of the proposed deviation from the Agency's uniform tax exemption policy in connection with the Project; and

WHEREAS, by the Amended Pilot Deviation Letter, the Chief Executive Officer of the Agency notified the chief executive officers of the Affected Tax Jurisdictions of the proposed deviation from the Agency's uniform tax exemption policy and further notified said chief executive officers that the members of the Agency would consider whether to approve such proposed deviation at this meeting;

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

Section 1. The Agency hereby finds and determines as follows:

(A) The Agency has considered any and all responses from the Affected Tax Jurisdictions to the Amended Pilot Deviation Letter.

(B) The Agency has reviewed and responded to all written comments received from any Affected Tax Jurisdiction with respect to the proposed deviation.

(C) The Agency has given all representatives from an Affected Tax Jurisdictions in attendance at this meeting the opportunity to address the members of the Agency regarding the proposed deviation.

Section 2. Based upon (A) the findings and determinations in Section 1 above, (B) any comments received at the Public Hearing, (C) input received at this meeting from the Affected Tax Jurisdictions with respect to the proposed deviation, (D) the Agency's knowledge of the Project, (E) the recommendations of Agency staff, and (F) such further investigation of the Project and the effect of the proposed deviation as the Agency has deemed appropriate, the Agency hereby determines to deviate from the Agency's uniform tax exemption policy with respect to the terms of the proposed payment in lieu of tax agreement to be entered into by the Agency with respect to the Project Facility for the reasons set forth in the Amended Pilot Deviation Letter. Based upon the aforementioned, the Agency hereby approves a deviation from the Agency's uniform tax exemption policy, the terms of the approved deviation to be as described in the Amended Pilot Deviation Letter.

Section 3. Upon preparation by special counsel to the Agency of a payment in lieu of tax agreement with respect to the Project Facility reflecting the terms of this resolution (the "Payment in Lieu of Tax Agreement") and approval of same by the Chair (or Vice Chair) of the Agency, the Chair (or Vice Chair) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Payment in Lieu of Tax Agreement, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in such form as is approved by the Chair (or Vice Chair), the execution thereof by the Chair (or Vice Chair) to constitute conclusive evidence of such approval.

Section 4. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Payment in Lieu of Tax Agreement, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Payment in Lieu of Tax Agreement binding upon the Agency.

Section 5. This Resolution shall take effect immediately.

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

Tracy L. Metzger	VOTING	_____
Susan Pedo	VOTING	_____
Darius Shahinfar	VOTING	_____
Lee E. Eck, Jr.	VOTING	_____
Dominick Calsolaro	VOTING	_____
Jahkeen Hoke	VOTING	_____
Robert T. Schofield	VOTING	_____

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK                    )  
  ) SS.:  
COUNTY OF ALBANY                    )

I, the undersigned (Assistant) Secretary of City of Albany Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on January 16, 2020 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 16<sup>th</sup> day of January, 2020.

---

(Assistant) Secretary

(SEAL)

**EXHIBIT A**  
**AMENDED PILOT DEVIATION LETTER**

- SEE ATTACHED -

CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY

21 Lodge Street  
Albany, New York 12207  
Tel: 518-434-2532 ext. 19  
Fax: 518-434-9846

January 10, 2020

The Honorable Daniel P. McCoy  
County Executive of Albany County  
Albany County Office Building  
112 State Street, Room 1200  
Albany, New York 12207

Kaweeda G. Adams, Superintendent  
Albany City School District  
1 Academy Park  
Albany, New York 12207

The Honorable Kathy M. Sheehan  
Mayor of the City of Albany  
City Hall  
24 Eagle Street, Room 102  
Albany, New York 12207

Anne Savage, Board President  
Albany City School District  
1 Academy Park  
Albany, New York 12207

RE: City of Albany Industrial Development Agency  
Proposed AMENDED Deviation from Uniform Tax Exemption Policy  
563 New Scotland Avenue, LLC Project

Dear Ladies and Gentlemen:

By letter dated November 8, 2019 (the "Initial Pilot Deviation Letter"), which Initial Pilot Deviation Letter is attached hereto as Exhibit A, City of Albany Industrial Development Agency (the "Agency") informed you of the proposed deviation (the "Initial Deviation Request") from the Agency's uniform tax exemption policy (the "Policy") in connection with the following (the "Project") to be undertaken by the Agency for the benefit of 563 New Scotland Avenue, LLC (the "Company"), said Project to consist of the following: (A) (1) the acquisition of an interest in approximately 21 parcels of land containing in the aggregate approximately 3.65 acres located at 563 New Scotland Avenue (tax map number 64.81-1-56), 583 New Scotland Avenue (tax map number 64.81-1-67), 301 South Allen Street (tax map number 64.81-1-63), 313 South Allen Street (tax map number 64.81-1-64), 311 South Allen Street (tax map number 64.81-1-65), 319 South Allen Street (tax map number 64.81-1-66), 90 Onderdonk Avenue (tax map number 64.81-1-47), 92 Onderdonk Avenue (tax map number 64.81-1-48), 94 Onderdonk Avenue (tax map number 64.81-1-49), 95 Onderdonk Avenue (tax map number 64.81-1-70), 96 Onderdonk Avenue (tax map number 64.81-1-50), 97 Onderdonk Avenue (tax map number 64.81-1-37), 98 Onderdonk Avenue (tax map number 64.81-1-51), 99 Onderdonk Avenue (tax map number 64.81-1-38), 100 Onderdonk Avenue (tax map number 64.81-1-52), 101 Onderdonk Avenue (tax map number 64.81-1-39), 102 Onderdonk Avenue (tax map number 64.81-1-53), 104 Onderdonk Avenue (tax map number 64.81-1-54), 111 Onderdonk Avenue (tax map number 64.81-1-40), 116 Onderdonk Avenue (tax map number 64.81-1-55) and Onderdonk Avenue (tax map number 64.81-1-72) in the City of Albany, Albany County, New York (collectively, the "Land"), together with seven (7) buildings located thereon (collectively, the "Existing Facility"), (2) the demolition of the Existing Facility, (3) the construction on the Land of four (4) buildings containing in the aggregate approximately 300,000 square feet (collectively, the "Facility") and (4) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (the "Equipment") (the Land, the Existing Facility, the Facility, and the Equipment being

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Kaweeda G. Adams, Superintendent  
Anne Savage, Board President  
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collectively referred to as the “Project Facility”), all of the foregoing to constitute an approximately 188 unit residential apartment complex, commercial/retail space and approximately 255 parking spaces to be owned and operated by the Company and any other directly and indirectly related activities; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

The Initial Deviation Request is outlined in the Initial Pilot Deviation Letter. Pursuant to subsequent negotiations between the Company and the Agency and the review of certain increases in the Project cost, the Company has made a request to the Agency (the “Pilot Request”) to revise the Initial Pilot Deviation Letter. Pursuant to the Pilot Request, the Agency would (A) enter into a payment in lieu of tax agreement (the “Proposed Pilot Agreement”) which terms are described below and (B) provide the mortgage recording tax abatement. The Proposed Pilot Agreement would not provide any abatements for any special assessments levied on the Project Facility.

The Proposed Pilot Agreement will provide that the Company be granted a twenty (20) year payment in lieu of tax agreement for the housing portion of the Facility and any portion of the Equipment assessable as real property pursuant to the New York Real Property Tax Law. Under the terms of the Proposed Pilot Agreement, the Company will pay (A) a base payment equal to one hundred percent (100%) of the normal taxes due on the site of the Project (the “Base Pilot Payment”), and (B) an additional amount based on the increase in assessed value of the Project Facility (such increase in the assessed value due to the undertaking of the Project shall be referred to as the “Improvements”), such increased amount to be adjusted by the abatement as described as follows:

<b>Years</b>	<b>Amount of Abatement on Increased Assessment</b>
1	90%
2	90%
3	90%
4	90%
5	90%
6	90%
7	90%
8	90%
9	90%
10	90%
11	85%
12	80%
13	70%
14	65%
15	65%
16	60%
17	55%

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18	50%
19	45%
20	40%
21 and thereafter	0%

As noted in the table above, the abatement schedule is 20 years, with Year 1 of the abatement schedule beginning in the year following the completion of the construction of the Project. Therefore, for Phase I of the Project, the Proposed Pilot Agreement is expected to begin in 2024 and terminate in 2044 ("Phase I"), for phase II of the Project, the Proposed Pilot Agreement is expected to begin in 2025 and terminate in 2045 ("Phase II") and for phase III of the Project, the Proposed Pilot Agreement is expected to begin in 2028 and terminate in 2048 ("Phase III"). These start and end dates are current estimates and the actual dates will be based on the completion dates of each phase of the Project.

Note further that the commercial portion of the Project will be subject to the commercial abatement schedule in the Agency's Project Evaluation and Assistance Framework. The abatement schedule for the commercial portion of the Project will start at 50% in Year 1, and be reduced by 5%/year over a 10 year period. These start and end dates of the abatement schedule will be based on the completion dates of each phase of the commercial portion of the Project.

For purposes of computing the Base Pilot Payment with respect to the Project Facility, the base assessed value will be equal to the current assessed value of the Project site, as determined by the Assessor of the City of Albany.

Beginning in Year 13 for each of the separate phases, the Proposed Pilot Agreement will also provide that the amount of payments in lieu of taxes payable by the Company will be the greater of (A) the amount determined in accordance with the above paragraph, or (B) an amount equal to 11.5% of the gross rental revenue generated at the Project Facility.

The Policy provides that, for a facility similar to the Project Facility, (A) the payments in lieu of taxes will normally be determined as follows: a 50% abatement in real property taxes on the improvements in year one of the payment in lieu of tax agreement with a 10% per year decrease in such abatement over the term of the five year payment in lieu of tax agreement, (B) the amount of the assessed value of the Project Facility will change as the assessed value is established annually by the Assessor of the City of Albany and (C) the mortgage recording tax would not be abated, unless the Agency deviated from its policy with respect to the payment by the Company of real property taxes.

The purpose of this letter is to inform you of such Pilot Request and that the Agency is considering whether to grant the Pilot Request and to approve a Proposed Pilot Agreement conforming to the terms of the Pilot Request. The Agency expects to consider whether to approve the terms of the Proposed Pilot Agreement at its meeting scheduled for January 16, 2020 at 12:15 p.m., local time at the offices of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York (the "Meeting"). As described later in this letter, during the meeting on January 16, 2020, the Agency will review the terms of the Pilot Request and, based on the discussions during such meeting the terms of the Pilot Request may be modified.

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This letter is forwarded to you for purposes of complying with Section 874 of the General Municipal Law of the State of New York, which requires written notice prior to the Agency taking final action with respect to the Proposed Pilot Agreement (if said Proposed Pilot Agreement may deviate from the provisions of the Agency's Policy).

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

1. **The nature of the Project:** The Project involves the demolition of the Existing Facility and the construction of a residential apartment complex, commercial/retail space and parking to be owned and operated by the Company.

2. **The present use of the property:** The Project is located in the downtown area of the City of Albany and the project site currently contains 1 house, 3 apartment buildings, 1 thrift shop, 1 building with Post Office and Rite Aid store and 1 parking garage.

3. **The economic condition of the area at the time of the request of the Company and the economic multiplying effect that the Project will have on the area:** At the time of the filing of the Application, the economic condition of the area in which the Project Facility is to be located is generally average. The area is also surrounded by distressed census tracts. Therefore, the area is strategically targeted for adding commercial/retail/residential development, based on the presence of vacant or underutilized buildings/real estate. This development is consistent with the Albany 2030 Plan.

4. **The extent to which the Project will create or retain permanent, private sector jobs and the number of jobs to be created or retained and the salary range of such jobs:** The Project will create approximately fifteen (15) new permanent jobs and retain two (2) permanent jobs. The Project will also create approximately eighty-five (85) construction jobs and the Company has committed to Regional Labor for 90% of the work force.

The Company expects that the Project will also result in the retention and creation of employment in the retail, restaurant, entertainment, service and office operations located in the surrounding area.

5. **The estimated value of new tax exemptions to be provided:** The estimated value of the tax exemptions are the following: \$1,200,000, sales and use tax; \$338,130, mortgage recording tax; and \$18,183,474 real property taxes.

6. **The economic impact of the Proposed Pilot Agreement on affected tax jurisdictions:** The economic impact of the Proposed Pilot Agreement is positive as development of the Project Facility is expected to spur additional development in the Upper New Scotland Ave Corridor area of the City of Albany.

7. **The impact of the Proposed Pilot Agreement on existing and proposed businesses and economic development projects in the vicinity:** The Project will increase the consumer base to support local business and employers. The Project will have a positive

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revitalizing effect on the community by developing currently vacant parcels in a strategically identified neighborhood location. The Project meets the intent and furthers the implementation of following the City of Albany strategic initiatives Albany 2030.

**8. The amount of private sector investment generated or likely to be generated by the Proposed Pilot Agreement:** The investment by the Company in undertaking the Project is equal to approximately \$39,780,000.

**9. The effect of the Proposed Pilot Agreement on the environment:** The Project will not have a significant effect on the environment.

**10. Project Timing:** It is anticipated that the Project will be accomplished in a timely fashion.

**11. The extent to which the Proposed Pilot Agreement will require the provision of additional services including, but not limited to, additional educational, transportation, police, emergency medical or fire services:** It is not anticipated that the Project will have a significant burden upon the educational facilities for any school district within the City of Albany, Albany County. After the completion of the Project, the employment at the Project is not anticipated to generate a substantial burden on the highways of the City of Albany or the surrounding area. All necessary emergency medical and police services are available.

**12. Anticipated tax Revenues:** It is anticipated that there will likely be additional sales tax revenues after Project completion relating to certain future operating activities at the Project and related multiplier impacts.

**13. The extent to which the Proposed Pilot Agreement will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the Project Facility is located:** The Project aligns with the continuing development of the Midtown Colleges area as well as the Albany 2030 Plan including: (a) encouraging investment in urban land and buildings for employment and housing and (b) increase job opportunities for all residents.

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

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The Honorable Kathy M. Sheehan  
Kaweeda G. Adams, Superintendent  
Anne Savage, Board President  
January 10, 2020  
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If you have any questions or comments regarding the foregoing, please do not hesitate to contact me at the above telephone number.

CITY OF ALBANY INDUSTRIAL DEVELOPMENT  
AGENCY

By: s/Sarah Reginelli  
Chief Executive Officer

EXHIBIT A  
INITIAL PILOT DEVIATION LETTER  
- SEE ATTACHED -

AFFIDAVIT OF MAILING  
OF PILOT DEVIATION NOTICE LETTER

STATE OF NEW YORK                     )  
  ) SS.:  
COUNTY OF ALBANY                    )

The undersigned, being duly sworn, hereby states:

1. That on November 8, 2019, I mailed to the following individuals a copy of a letter (the "Pilot Deviation Notice Letter") informing said individuals of (A) a proposed deviation (the "Deviation") by City of Albany Industrial Development Agency (the "Agency") from the Agency's Uniform Tax Exemption Policy relating to the proposed 563 New Scotland Avenue, LLC Project to be undertaken by the Agency for the benefit of 563 New Scotland Avenue, LLC (the "Company") and (B) the time and place of the meeting of the members of the Agency at which the question of whether to proceed with said Deviation is scheduled to be considered by the Agency.

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The Honorable Daniel P. McCoy  
County Executive of Albany County  
Albany County Office Building  
112 State Street, Room 1200  
Albany, New York 12207

7018 2290 0000 2892 2387

The Honorable Kathy M. Sheehan  
Mayor of the City of Albany  
City Hall  
24 Eagle Street, Room 102  
Albany, New York 12207

7018 2290 0000 2892 2394


Kaweeda G. Adams, Superintendent  
Albany City School District  
1 Academy Park  
Albany, New York 12207

7018 2290 0000 2892 2370

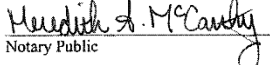
Anne Savage, Board President  
Albany City School District  
1 Academy Park  
Albany, New York 12207

2. That the letter attached hereto as Exhibit A is a duplicate copy of the Pilot Deviation Notice Letter which was mailed to the above individuals.

IN WITNESS WHEREOF, I have hereunto set my hand this 8<sup>th</sup> day of November, 2019.

  
Adam Carson

Sworn to before me this  
8<sup>th</sup> day of November, 2019.

  
Meredith A. McCarthy  
Notary Public

Meredith A. McCarthy  
Notary Public, State of New York  
No. 01MC6345002  
Qualified in Albany County  
Commission Expires July 18, 2020

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EXHIBIT A  
COPY OF PILOT DEVIATION LETTER

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CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY  
21 Lodge Street  
Albany, New York 12207  
Tel: 518-434-2532 ext. 19  
Fax: 518-434-9846

November 8, 2019

The Honorable Daniel P. McCoy  
County Executive of Albany County  
Albany County Office Building  
112 State Street, Room 1200  
Albany, New York 12207

Kaweeda G. Adams, Superintendent  
Albany City School District  
1 Academy Park  
Albany, New York 12207

The Honorable Kathy M. Sheehan  
Mayor of the City of Albany  
City Hall  
24 Eagle Street, Room 102  
Albany, New York 12207

Anne Savage, Board President  
Albany City School District  
1 Academy Park  
Albany, New York 12207

RE: City of Albany Industrial Development Agency  
Proposed Deviation from Uniform Tax Exemption Policy  
563 New Scotland Avenue, LLC Project

Dear Ladies and Gentlemen:

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

In September, 2019, City of Albany Industrial Development Agency (the "Agency") received an application (the "Application") from 563 New Scotland Avenue, LLC (the "Company"), requesting that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project to consist of the following: (A) (1) the acquisition of an interest in approximately 21 parcels of land containing in the aggregate approximately 3.65 acres located at 563 New Scotland Avenue (tax map number 64.81-1-56), 583 New Scotland Avenue (tax map number 64.81-1-67), 301 South Allen Street (tax map number 64.81-1-63), 313 South Allen Street (tax map number 64.81-1-64), 311 South Allen Street (tax map number 64.81-1-65), 319 South Allen Street (tax map number 64.81-1-66), 90 Onderdonk Avenue (tax map number 64.81-1-47), 92 Onderdonk Avenue (tax map number 64.81-1-48), 94 Onderdonk Avenue (tax map number 64.81-1-49), 95 Onderdonk Avenue (tax map number 64.81-1-70), 96 Onderdonk Avenue (tax map number 64.81-1-50), 97 Onderdonk Avenue (tax map number 64.81-1-37), 98 Onderdonk Avenue (tax map number 64.81-1-51), 99 Onderdonk Avenue (tax map number 64.81-1-38), 100 Onderdonk Avenue (tax map number 64.81-1-52), 101 Onderdonk Avenue (tax map number 64.81-1-39), 102 Onderdonk Avenue (tax map number 64.81-1-53), 104 Onderdonk Avenue (tax map number 64.81-1-54), 111 Onderdonk Avenue (tax map number 64.81-1-40), 116 Onderdonk Avenue (tax map number 64.81-1-55) and Onderdonk Avenue (tax map number 64.81-1-72) in the City of Albany, Albany County, New York (collectively, the "Land"), together with seven (7) buildings located thereon (collectively, the "Existing Facility"), (2) the demolition of the Existing Facility, (3) the construction on the Land of four (4) buildings containing in the aggregate approximately 300,000 square feet (collectively, the "Facility") and (4) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (the "Equipment") (the Land, the Existing Facility, the Facility, and the Equipment being

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collectively referred to as the "Project Facility"), all of the foregoing to constitute an approximately 188 unit residential apartment complex, commercial/retail space and approximately 255 parking spaces to be owned and operated by the Company and any other directly and indirectly related activities; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

In connection with the Application, the Company has made a request to the Agency to deviate from its Policy (the "Pilot Request"). Pursuant to the Pilot Request, the Agency would (A) enter into three (3) separate payment in lieu of tax agreements (each, a "Proposed Pilot Agreement") for the anticipated three (3) phases of the Project, which terms are described below and (B) provide a mortgage recording tax abatement. The Proposed Pilot Agreement would not provide any abatements for any special assessments levied on the Project Facility.

Each Proposed Pilot Agreement will provide that the Company be granted a twenty (20) year payment in lieu of tax agreement on each phase of the Facility and any portion of the Equipment assessable as real property pursuant to the New York Real Property Tax Law. Under the terms of each Proposed Pilot Agreement, the Company will pay (A) a base Pilot payment equal to one hundred percent (100%) of the normal taxes due on the site of each phase of the Project, and (B) an additional amount based on the increase in assessed value of each phase of the Project Facility (such increase in the assessed value due to the undertaking of each phase of the Project shall be referred to as the "Improvements"), such increased amount to be adjusted by the abatement as described as follows:

Years	Amount of Abatement on Increased Assessment
1	90%
2	90%
3	90%
4	90%
5	90%
6	90%
7	90%
8	90%
9	90%
10	90%
11	85%
12	80%
13	70%
14	65%
15	65%
16	60%
17	55%
18	50%

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19	45%
20	40%
21 and thereafter	0%

As noted in the table above, the abatement schedule is 20 years, with Year 1 of the abatement schedule beginning in the year following the completion of the construction of each phase of the Project. Therefore, for phase I of the Project, the Proposed Pilot Agreement is expected to begin in 2022 and terminate in 2041 ("Phase I"), for phase II of the Project, the Proposed Pilot Agreement is expected to begin in 2023 and terminate in 2042 ("Phase II") and for phase III of the Project, the Proposed Pilot Agreement is expected to begin in 2024 and terminate in 2043 ("Phase III"). These start and end dates are current estimates and the actual dates will be based on the completion dates of each phase.

Beginning in Year 13, each Proposed Pilot Agreement will also provide that the amount of payments in lieu of taxes payable by the Company will be the greater of (A) the amount determined in accordance with the above paragraph, or (B) an amount equal to 11.5% of the gross rental revenue generated at the Project Facility.

The Policy provides that, for a facility similar to the Project Facility, (A) the payments in lieu of taxes will normally be determined as follows: a 50% abatement in real property taxes on the improvements in year one of the payment in lieu of tax agreement with a 10% per year decrease in such abatement over the term of the five year payment in lieu of tax agreement, (B) the amount of the assessed value of the Project Facility will change as the assessed value is established annually by the Assessor of the City of Albany and (C) the mortgage recording tax would not be abated, unless the Agency deviated from its policy with respect to the payment by the Company of real property taxes.

The purpose of this letter is to inform you of such Pilot Request and that the Agency is considering whether to grant the Pilot Request and to approve a Proposed Pilot Agreement conforming to the terms of the Pilot Request. The Agency expects to consider whether to approve the terms of the Proposed Pilot Agreement at its meeting scheduled for November 21, 2019 at 12:15 p.m., local time at the offices of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York (the "Meeting"). As described later in this letter, during the meeting on November 21, 2019, the Agency will review the terms of the Pilot Request and, based on the discussions during such meeting the terms of the Pilot Request may be modified.

This letter is forwarded to you for purposes of complying with Section 874 of the General Municipal Law of the State of New York, which requires written notice prior to the Agency taking final action with respect to the Proposed Pilot Agreement (if said Proposed Pilot Agreement may deviate from the provisions of the Agency's Policy).

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

1. **The nature of the Project:** The Project involves the demolition of the Existing Facility and the construction of a residential apartment complex, commercial/retail space and parking to be owned and operated by the Company.

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2. **The present use of the property:** The Project is located in the downtown area of the City of Albany and the project site currently contains 1 house, 3 apartment buildings, 1 thrift shop, 1 building with Post Office and Rite Aid store and 1 parking garage.

3. **The economic condition of the area at the time of the request of the Company and the economic multiplying effect that the Project will have on the area:** At the time of the filing of the Application, the economic condition of the area in which the Project Facility is to be located is generally average. The area is also surrounded by distressed census tracts. Therefore, the area is strategically targeted for adding commercial/retail/residential development, based on the presence of vacant or underutilized buildings/real estate. This development is consistent with the Albany 2030 Plan.

4. **The extent to which the Project will create or retain permanent, private sector jobs and the number of jobs to be created or retained and the salary range of such jobs:** The Project will create approximately three (3) new permanent jobs and retain two (2) permanent jobs. The Project will also create approximately eighty-five (85) construction jobs and the Company has committed to Regional Labor for 90% of the work force.

The Company expects that the Project will also result in the retention and creation of employment in the retail, restaurant, entertainment, service and office operations located in the surrounding area.

5. **The estimated value of new tax exemptions to be provided:** The estimated value of the tax exemptions are the following: \$1,200,000, sales and use tax; \$330,000, mortgage recording tax; and \$18,343,842, real property taxes.

6. **The economic impact of the Proposed Pilot Agreement on affected tax jurisdictions:** The economic impact of the Proposed Pilot Agreement is positive as development of the Project Facility is expected to spur additional development in the Upper New Scotland Ave Corridor area of the City of Albany.

7. **The impact of the Proposed Pilot Agreement on existing and proposed businesses and economic development projects in the vicinity:** The Project will increase the consumer base to support local business and employers. The Project will have a positive revitalizing effect on the community by developing currently vacant parcels in a strategically identified neighborhood location. The Project meets the intent and furthers the implementation of following the City of Albany strategic initiatives Albany 2030.

8. **The amount of private sector investment generated or likely to be generated by the Proposed Pilot Agreement:** The investment by the Company in undertaking the Project is equal to approximately \$37,943,000.

9. **The effect of the Proposed Pilot Agreement on the environment:** The Project will not have a significant effect on the environment.

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10. **Project Timing:** It is anticipated that the Project will be accomplished in a timely fashion.

11. **The extent to which the Proposed Pilot Agreement will require the provision of additional services including, but not limited to, additional educational, transportation, police, emergency medical or fire services:** It is not anticipated that the Project will have a significant burden upon the educational facilities for any school district within the City of Albany, Albany County. After the completion of the Project, the employment at the Project is not anticipated to generate a substantial burden on the highways of the City of Albany or the surrounding area. All necessary emergency medical and police services are available.

12. **Anticipated tax Revenues:** It is anticipated that there will likely be additional sales tax revenues after Project completion relating to certain future operating activities at the Project and related multiplier impacts.

13. **The extent to which the Proposed Pilot Agreement will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the Project Facility is located:** The Project aligns with the continuing development of the Midtown Colleges area as well as the Albany 2030 Plan including: (a) encouraging investment in urban land and buildings for employment and housing and (b) increase job opportunities for all residents.

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

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

CITY OF ALBANY INDUSTRIAL DEVELOPMENT  
AGENCY

By: s/Sarah Reginelli  
Chief Executive Officer

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☐ Adult Signature Restricted Delivery \$

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Total Postage and Fees  
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 County Executive of Albany County  
 Albany County Office Building  
 100 State Street, Room 1200  
 Albany, New York 12207

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☒ Return Receipt (hardcopy) \$ 2.80  
☐ Return Receipt (electronic) \$  
☐ Certified Mail Restricted Delivery \$  
☐ Adult Signature Required \$  
☐ Adult Signature Restricted Delivery \$

Postage  
 \$ 1.50

Total Postage and Fees  
 \$ 6.80

Sent to: Kaweeda G. Adams, Superintendent  
 Albany City School District  
 1 Academy Park  
 Albany, New York 12207

Postmark  
 Here

010001.00180  
 Pilot Dev Ltr  
 NEZ/0410

U.S. Postal Service  
**CERTIFIED MAIL® RECEIPT**  
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Extra Services & Fees (check box, add fee as appropriate)  
☒ Return Receipt (hardcopy) \$ 2.80  
☐ Return Receipt (electronic) \$  
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☐ Adult Signature Required \$  
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 Mayor of the City of Albany  
 City Hall  
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<p>2. Article Number (Transfer from service label)</p> <p>9590 9402 4702 8323 0030 02</p> <p>708 2290 0005 2892 2370</p>		<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery</p> <p><input checked="" type="checkbox"/> Certified Mail®</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p> <p><input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	

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**APPROVING RESOLUTION  
563 NEW SCOTLAND AVE LLC PROJECT**

A regular meeting of City of Albany Industrial Development Agency (the “Agency”) was convened in public session at the office of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York on January 16, 2020 at 12:15 o’clock p.m., local time.

The meeting was called to order by the (Vice) Chair of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:**

Tracy L. Metzger	Chair
Susan Peto	Vice Chair
Darius Shahinfar	Treasurer
Lee E. Eck, Jr.	Secretary
Dominick Calsolaro	Member
Jahkeen Hoke	Member
Robert T. Schofield	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Sarah Reginelli	Chief Executive Officer
Mark Opalka	Chief Financial Officer
Ashley Mohl	Director of Development, Capitalize Albany Corporation
Andrew Corcione	Senior Economic Developer II, Capitalize Albany Corporation
Michael Bohne	Communications & Marketing, Capitalize Albany Corporation
Tammie Fanfa	Executive Assistant, Capitalize Albany Corporation
Amy Lavine, Esq.	Agency Counsel
A. Joseph Scott, III, Esq.	Special Agency Counsel

The following resolution was offered by \_\_\_\_\_, seconded by \_\_\_\_\_, to wit:

Resolution No. 0120-

**RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION  
WITH A LEASE/LEASEBACK TRANSACTION FOR A PROJECT FOR 563 NEW  
SCOTLAND AVE LLC (THE “COMPANY”).**

WHEREAS, City of Albany Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 325 of the 1974 Laws of New York, as amended, constituting Section 903-a of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred

to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of commercial, manufacturing and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

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

WHEREAS, in September, 2019, 563 New Scotland Ave LLC, a New York State limited liability company (the “Company”) submitted an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in approximately 21 parcels of land containing in the aggregate approximately 3.65 acres located at 563 New Scotland Avenue (tax map number 64.81-1-56), 583 New Scotland Avenue (tax map number 64.81-1-67), 301 South Allen Street (tax map number 64.81-1-63), 313 South Allen Street (tax map number 64.81-1-64), 311 South Allen Street (tax map number 64.81-1-65), 319 South Allen Street (tax map number 64.81-1-66), 90 Onderdonk Avenue (tax map number 64.81-1-47), 92 Onderdonk Avenue (tax map number 64.81-1-48), 94 Onderdonk Avenue (tax map number 64.81-1-49), 95 Onderdonk Avenue (tax map number 64.81-1-70), 96 Onderdonk Avenue (tax map number 64.81-1-50), 97 Onderdonk Avenue (tax map number 64.81-1-37), 98 Onderdonk Avenue (tax map number 64.81-1-51), 99 Onderdonk Avenue (tax map number 64.81-1-38), 100 Onderdonk Avenue (tax map number 64.81-1-52), 101 Onderdonk Avenue (tax map number 64.81-1-39), 102 Onderdonk Avenue (tax map number 64.81-1-53), 104 Onderdonk Avenue (tax map number 64.81-1-54), 111 Onderdonk Avenue (tax map number 64.81-1-40), 116 Onderdonk Avenue (tax map number 64.81-1-55) and Onderdonk Avenue (tax map number 64.81-1-72) in the City of Albany, Albany County, New York (collectively, the “Land”), together with seven (7) buildings located thereon (collectively, the “Existing Facility”), (2) the demolition of the Existing Facility, (3) the construction on the Land of four (4) buildings containing in the aggregate approximately 300,000 square feet (collectively, the “Facility”) and (4) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (the “Equipment”) (the Land, the Existing Facility, the Facility, and the Equipment being collectively referred to as the “Project Facility”), all of the foregoing to constitute an approximately 188 unit residential apartment complex, commercial/retail space and approximately 255 parking spaces to be owned and operated by the Company and any other directly and indirectly related activities; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on October 17, 2019 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on November 26, 2019 to the

chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on November 27, 2019 on a public bulletin board located at Albany City Hall located at 24 Eagle Street in the City of Albany, Albany County, New York as well as on the Agency's website, (C) caused notice of the Public Hearing to be published on November 30, 2019 in The Times Union, a newspaper of general circulation available to the residents of City of Albany, Albany County, New York, (D) conducted the Public Hearing on December 11, 2019 at 12:00 o'clock p.m., local time at offices of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York, and (E) prepared a report of the Public Hearing (the "Public Hearing Report") fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Agency on January 16, 2020 (the "Resolution Confirming SEQR Determination"), the Agency (A) concurred in the determination that the City of Albany Planning Board (the "Planning Board") and the City of Albany Board of Zoning Appeals (the "Zoning Board") are each the "lead agency" with respect to SEQRA, (B) acknowledged receipt of a negative declaration from the Planning Board issued on August 27, 2019 (the "Planning Board Negative Declaration"), in which the Planning Board determined that the Project would not have a significant adverse environmental impact on the environment, and therefore, that an environmental statement need not be prepared with respect to the Project and (C) acknowledged receipt of a negative declaration from the Zoning Board issued on June 13, 2019 (the "Zoning Board Negative Declaration"), in which the Zoning Board determined that the Project would not have a significant adverse environmental impact on the environment, and therefore, that an environmental statement need not be prepared with respect to the Project; and

WHEREAS, by further resolution adopted by the members of the Agency on January 16, 2020 (the "Commercial/Retail Finding Resolution"), the Agency (A) determined that the Project constituted a "commercial project" within the meaning of the Act, (B) found that although the Project Facility appears to constitute a project where facilities or properties that are primarily used in making the retail sales of goods or services to customers who personally visit such facilities may constitute more than one-third of the costs of the Project, the Agency is authorized to provide financial assistance in respect of the Project pursuant to Section 862(2)(a) of the Act because the Project Facility is located in census tract 17 which is contiguous to census tract 5.02 which is in a highly distressed area, (C) determined, following a review of the Public Hearing Report, that the Project would serve the public purposes of the Act by preserving permanent private sector jobs in the State of New York, and (D) determined that the Agency would proceed with the Project and the granting of the Financial Assistance; provided however, that no financial assistance would be provided to the Project by the Agency unless and until the Mayor of City of Albany, as chief executive officer of City of Albany, New York, pursuant to Section 862(2)(c) of the Act, confirmed the proposed action of the Agency with respect to the Project; and

WHEREAS, by resolution adopted by the members of the Agency on January 16, 2020 (the "Pilot Deviation Approval Resolution"), the members of the Agency determined to deviate from the Agency's uniform tax exemption policy with respect to the Project; and

WHEREAS, pursuant to Section 862(2) of the Act, prior to providing the Financial Assistance to the Project, the Mayor, as chief executive officer of the City of Albany, New York, must confirm the proposed action of the Agency; and

WHEREAS, the Agency has given due consideration to the Application, and to representations by the Company that (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Company to undertake the Project in City of Albany, New York and (B) the completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York; and

WHEREAS, the Agency desires to encourage the Company to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of City of Albany, New York by undertaking the Project in the City of Albany, New York; and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance described in the notice of the Public Hearing, the Agency proposes to enter into the following documents (hereinafter collectively referred to as the "Agency Documents"): (A) a certain lease to agency (the "Lease to Agency" or the "Underlying Lease") by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the "Leased Premises"); (B) a certain license agreement (the "License to Agency" or the "License Agreement") by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company will grant to the Agency (1) a license to enter upon the balance of the Land (the "Licensed Premises") for the purpose of undertaking and completing the Project and (2) in the event of an occurrence of an Event of Default by the Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement (as hereinafter defined); (C) a lease agreement (and a memorandum thereof) (the "Lease Agreement") by and between the Agency and the Company, pursuant to which, among other things, the Company agrees to undertake the Project as agent of the Agency and the Company further agrees to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency's administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project; (D) a payment in lieu of tax agreement (the "Payment in Lieu of Tax Agreement") by and between the Agency and the Company, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility; (E) a uniform agency project agreement (the "Uniform Agency Project Agreement") by and between the Agency and the Company regarding the granting of the financial assistance and the potential recapture of such assistance; (F) a certain recapture agreement (the "Section 875 GML Recapture Agreement") by and between the Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes; (G) a sales tax exemption letter (the "Sales Tax Exemption Letter") to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance; (H) a New York State Department of Taxation and Finance form entitled "IDA Appointment of Project Operator or Agency for Sales Tax Purposes" (the form required to be filed pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Report") and any additional report to the Commissioner of the State Department of Taxation and Finance concerning the amount of sales tax exemption benefit for the Project (the "Additional Thirty-Day Project Report"); (I) if the Company intends to finance the Project with borrowed money, a mortgage and any other security documents and related documents (collectively, the "Mortgage") from the Agency and the Company to the Company's lender with respect to the Project ("the "Lender"), which Mortgage will grant a lien on and security interest in the Project Facility to secure a loan from the Lender to the Company with respect to the Project (the "Loan"); (J) various certificates relating to the Project; (K) if the Company intends to request the Agency to appoint (1) the Company, as agent of the Agency and (2) a contractor or contractors, as agent(s) of the Agency prior to closing on the Project and the Lease Agreement, agency and indemnification agreements, interim Section 875 GML recapture agreements, interim sales tax exemption letters and interim thirty-day sales tax reports (collectively, the "Interim Documents"); and (L) various certificates relating to the Project (the "Closing Documents");

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

Section 1. All action taken by the Chief Executive Officer of the Agency with respect to the Public Hearing with respect to the Project is hereby ratified and confirmed.

Section 2. The law firm of Hodgson Russ LLP is hereby appointed Special Agency Counsel to the Agency with respect to all matters in connection with the Project. Special Agency Counsel for the Agency is hereby authorized, at the expense of the Company, to work with the Company, counsel to the Company, counsel to the Agency and others to prepare, for submission to the Agency, all documents necessary to effect the transactions contemplated by this Resolution. Special Agency Counsel has prepared and submitted an initial draft of the Agency Documents to staff of the Agency.

Section 3. The Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act;

(B) The Project constitutes a “project,” as such term is defined in the Act;

(C) The Project site is located entirely within the boundaries of City of Albany, New York;

(D) It is estimated at the present time that the costs of the planning, development, acquisition, construction, reconstruction and installation of the Project Facility (collectively, the “Project Costs”) will be approximately \$37,943,000;

(E) The completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York;

(F) Although the Project constitutes a project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost, the Company has represented to the Agency that (i) the Project is located within census tract 17, which is contiguous to census tract 5.02, which is considered to be a distressed census tract, and therefore, is in a “highly distressed area”, as that term is defined in Section 854(18) of the Act, and (ii) completion of the Project will serve the public purposes of the Act by increasing the overall number of permanent, private sector jobs in the State of New York;

(G) The granting of the Financial Assistance by the Agency with respect to the Project will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of City of Albany, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act;

(H) The Agency has reviewed the Public Hearing Report and has fully considered all comments contained therein;

(I) The Project should receive the Financial Assistance in the form of exemption from sales tax, real property tax and mortgage recording tax based on an evaluation of the Project based on the Agency's Uniform Criteria for the Evaluation of Projects Policy and the description of expected public benefits to occur as a result of this Project, as described on **Exhibit A** attached hereto; and

(J) It is desirable and in the public interest for the Agency to enter into the Agency Documents, except that for the Interim Documents, the following conditions shall be met prior to the Agency entering into the Interim Documents: (1) the term of the Interim Documents shall not exceed sixty (60) days, unless future extensions are consented to by the Agency in writing, (2) the Company shall have paid the Agency's administrative fee, (3) the Company and any contractors shall have delivered evidence of adequate insurance coverage protecting the Agency and (4) execution by the other parties thereto and delivery of same to the Agency of the Interim Documents.

Section 4. In consequence of the foregoing, the Agency hereby determines to: (A) accept the License Agreement; (B) lease the Project Facility to the Company pursuant to the Lease Agreement; (C) acquire, construct and install the Project Facility, or cause the Project Facility to be acquired, installed and constructed; (D) enter into the Payment in Lieu of Tax Agreement; (E) enter into the Section 875 GML Recapture Agreement; (F) enter into the Uniform Agency Project Agreement; (G) enter into the Interim Documents, subject to compliance with Section 3(J) above; (H) secure the Loan by entering into the Mortgage; and (I) grant the Financial Assistance with respect to the Project; provided, however, that no financial assistance shall be provided to the Project by the Agency unless and until the Mayor of the City of Albany, New York, as chief executive officer of the City of Albany, New York, shall, pursuant to Section 862(2)(c) of the Act, confirm the proposed action of the Agency with respect to the Project.

Section 5. The Agency is hereby authorized (A) to acquire a license in the Licensed Premises pursuant to the License Agreement, (B) to acquire a leasehold interest in the Leased Premises pursuant to the Underlying Lease, (C) to acquire title to the Equipment pursuant to a bill of sale (the "Bill of Sale to Agency") from the Company to the Agency, and (D) to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisitions are hereby approved, ratified and confirmed; provided, however, that no financial assistance shall be provided to the Project by the Agency unless and until the Mayor of the City of Albany, New York, as chief executive officer of the City of Albany, New York, shall, pursuant to Section 862(2)(c) of the Act, confirm the proposed action of the Agency with respect to the Project.

Section 6. The Agency is hereby authorized to acquire, construct and install the Project Facility as described in the Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition, construction and installation are hereby ratified, confirmed and approved; provided, however, that no financial assistance shall be provided to the Project by the Agency unless and until the Mayor of the City of Albany, New York, as chief executive officer of the City of Albany, New York, shall, pursuant to Section 862(2)(c) of the Act, confirm the proposed action of the Agency with respect to the Project.

Section 7. The Chair (or Vice Chair) of the Agency, with the assistance of Agency Counsel and/or Special Counsel, is authorized to negotiate and approve the form and substance of the Agency Documents.

Section 8. (A) The Chair (or Vice Chair) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agency Documents, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same,

all in the forms thereof as the Chair (or Vice Chair) shall approve, the execution thereof by the Chair (or Vice Chair) to constitute conclusive evidence of such approval.

(B) The Chair (or Vice Chair) of the Agency is hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 9. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 10. This Resolution shall take effect immediately.

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

Tracy L. Metzger	VOTING	_____
Susan Peto	VOTING	_____
Darius Shahinfar	VOTING	_____
Lee E. Eck, Jr.	VOTING	_____
Dominick Calsolaro	VOTING	_____
Jahkeen Hoke	VOTING	_____
Robert T. Schofield	VOTING	_____

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK                    )  
  ) SS.:  
COUNTY OF ALBANY                    )

I, the undersigned (Assistant) Secretary of City of Albany Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on January 16, 2020 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 16<sup>th</sup> day of January, 2020.

---

(Assistant) Secretary

(SEAL)

## EXHIBIT A

### DESCRIPTION OF THE PROJECT EVALUATION AND EXPECTED PUBLIC BENEFITS

#### 563 NEW SCOTLAND AVE, LLC PROJECT

Pursuant to the City of Albany Industrial Development Agency's (the "Agency") Uniform Criteria for the Evaluation of Projects Policy, the following general uniform criteria were utilized by the "Agency" to evaluate and select the project for which the Agency can provide financial assistance. In the discussions had between the Project Beneficiary and the Agency with respect to the Project Beneficiary's request for Financial Assistance from the Agency with respect to the Project, the Project Beneficiary has represented to the Agency that the Project is expected to provide the following benefits to the Agency and/or to the residents of City of Albany, Albany County, New York (the "Public Benefits"):

Description of Evaluation Criteria/Benefit		Applicable to Project (indicate Yes or No)		Criteria Assessment/ Expected Benefit
1.	Retention of direct and indirect existing jobs	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<p>Project will increase the level of activity in the Upper New Scotland Ave Corridor, thereby promoting the retention of existing jobs.</p> <p>The Company expects that the Project will result in the retention and creation of employment in the retail, restaurant, entertainment and office operations located in the surrounding area.</p>
2.	Creation of direct and indirect new permanent jobs	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<p>Project will increase the level of activity in the Upper New Scotland Ave Corridor, thereby promoting the creation of new permanent jobs.</p> <p>The Project will create 13 new full time equivalent jobs.</p> <p>The Company expects that the Project will result in the retention and creation of employment in the retail, restaurant, entertainment, service and office operations located in the surrounding area.</p>

3.	Estimated value of tax exemptions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<p>The exemptions have been weighed against the cumulative benefits of the Project.</p> <p>NYS Sales and Compensating Use Tax Exemption: \$1,200,000 Mortgage Recording Tax Exemption: \$338,130 Real Property Tax Exemption: \$18,343,842</p>
4.	Private sector investment	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<p>Project applicant expects to invest over \$39.78 million of private investment in the Project.</p>
5.	Likelihood of Project being accomplished in a timely fashion	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<p>High likelihood that Project will be accomplished in a timely fashion.</p> <p>The Project has received full Planning Board approval.</p> <p>The Applicant expects to close on the purchase of the property in 1Q 2020.</p>
6.	Extent of new revenue provided to local taxing jurisdictions.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<p>Project will result in new revenue to local taxing jurisdictions under the proposed PILOT program through the City of Albany IDA.</p> <p>Project will result in an increase in assessed value from the current total assessment: \$2,851,263 (Per City of Albany Commissioner of Assessment and Taxation 2019 Assessment Roll) to the estimated improved total assessment: \$21,900,000 (Per City of Albany Commissioner of Assessment and Taxation).</p>

7.	Other:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<p>The Project will increase the consumer base to support local businesses and employers.</p> <p>The Project will have a positive revitalizing effect on the community by developing in a strategically identified neighborhood location.</p> <p>The Project meets the intent and furthers the implementation of the following City of Albany strategic initiatives: Albany 2030.</p>
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**PUBLIC HEARING RESOLUTION  
BROADWAY 915, LLC PROJECT**

A regular meeting of City of Albany Industrial Development Agency (the “Agency”) was convened in public session at the office of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York on January 16, 2020 at 12:15 o’clock p.m., local time.

The meeting was called to order by the (Vice) Chair of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:**

Tracy L. Metzger	Chair
Susan Pedo	Vice Chair
Hon. Darius Shahinfar	Treasurer
Lee E. Eck, Jr.	Secretary
Dominick Calsolaro	Member
Jahkeen Hoke	Member
Robert T. Schofield, Esq.	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Sarah Reginelli	Chief Executive Officer
Mark Opalka	Chief Financial Officer
Ashley Mohl	Director of Development, Capitalize Albany Corporation
Andrew Corcione	Senior Economic Developer II, Capitalize Albany Corporation
Michael Bohne	Communications & Marketing, Capitalize Albany Corporation
Tammie Fanfa	Executive Assistant, Capitalize Albany Corporation
Amy Lavine, Esq.	Agency Counsel
A. Joseph Scott, III, Esq.	Special Agency Counsel

The following resolution was offered by \_\_\_\_\_, seconded by \_\_\_\_\_, to wit:

Resolution No. 0120-

**RESOLUTION AUTHORIZING THE CHIEF EXECUTIVE OFFICER OF CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY TO HOLD A PUBLIC HEARING REGARDING A PROPOSED PROJECT TO BE UNDERTAKEN FOR THE BENEFIT OF BROADWAY 915, LLC.**

WHEREAS, City of Albany Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 325 of the 1974 Laws of New York, as amended, constituting Section 903-a

of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, warehousing, research, commercial and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

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

WHEREAS, Broadway 915, LLC, a New York State limited liability company (the "Company"), submitted an application (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately 1.38 acre parcel of land located at 745 Broadway (currently tax map number 65.83-1-28) in the City of Albany, Albany County, New York (the "Land"), (2) the construction on the Land of an approximately 99,535 square foot, five (5) story building with approximately 75 surface parking spaces (collectively, the "Facility") and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the "Equipment") (the Land, the Facility, and the Equipment being collectively referred to as the "Project Facility"), all of the foregoing to constitute an approximately 80 unit residential apartment building with commercial/retail space to be owned and operated by the Company and any other directly and indirectly related activities; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, pursuant to Section 859-a of the Act, prior to the Agency providing any "financial assistance" (as defined in the Act) of more than \$100,000 to any project, the Agency, among other things, must hold a public hearing pursuant to Section 859-a of the Act with respect to said project; and

WHEREAS, the Agency desires to provide for compliance with the provisions of Section 859-a of the Act with respect to the Project;

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

Section 1. The Agency hereby authorizes the Chief Executive Officer of the Agency, after consultation with the members of the Agency and Agency Counsel, (A) to establish the time, date and place for a public hearing of the Agency to hear all persons interested in the Project (the "Public Hearing"); (B) to cause the Public Hearing to be held in a city, town or village where the Project Facility is or is to be located, and to cause notice of such Public Hearing to be given to the public by publishing a notice or notices of such Public Hearing in a newspaper of general circulation available to the residents of the governmental units where the Project Facility is or is to be located, such notice or notices to comply with the requirements of Section 859-a of the Act; (C) to cause notice of the Public Hearing to be given to the chief executive officer of the county and of each city, town, village and school district in which the Project Facility is or is to be located to comply with the requirements of Section 859-a of the Act; (D) to conduct such Public

Hearing; (E) to cause a report of the Public Hearing fairly summarizing the views presented at such Public Hearing (the "Report") to be prepared; and (F) to cause a copy of the Report to be made available to the members of the Agency.

Section 2. The Chair, Vice Chair and/or Chief Executive Officer of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 3. All action taken by the Chief Executive Officer of the Agency in connection with the Public Hearing with respect to the Project prior to the date of this Resolution is hereby ratified and confirmed.

Section 4. This Resolution shall take effect immediately.

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

Tracy L. Metzger	VOTING	_____
Susan Pado	VOTING	_____
Hon. Darius Shahinfar	VOTING	_____
Lee E. Eck, Jr.	VOTING	_____
Dominick Calsolaro	VOTING	_____
Jahkeen Hoke	VOTING	_____
Robert T. Schofield, Esq.	VOTING	_____

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK                    )  
  ) SS.:  
COUNTY OF ALBANY                    )

I, the undersigned (Assistant) Secretary of City of Albany Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on January 16, 2020 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 16<sup>th</sup> day of January, 2020.

---

(Assistant) Secretary

(SEAL)

**CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY  
ANNUAL HOUSEKEEPING RESOLUTION 2020**

A regular meeting of City of Albany Industrial Development Agency (the “Agency”) was convened in public session at the office of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York on January 16, 2020 at 12:15 p.m., local time.

The meeting was called to order by the (Vice) Chair of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:**

Tracy L. Metzger	Chair
Susan Pedo	Vice Chair
Hon. Darius Shahinfar	Treasurer
Lee E. Eck, Jr.	Secretary
Dominick Calsolaro	Member
Jahkeen Hoke	Member
Robert T. Schofield, Esq.	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Sarah Reginelli	Chief Executive Officer
Mark Opalka	Chief Financial Officer
Ashley Mohl	Director of Development, Capitalize Albany Corporation
Andrew Corcione	Senior Economic Developer II, Capitalize Albany Corporation
Michael Bohne	Communications & Marketing, Capitalize Albany Corporation
Tammie Fanfa	Executive Assistant, Capitalize Albany Corporation
Amy Lavine, Esq.	Agency Counsel
A. Joseph Scott, III, Esq.	Special Agency Counsel

The following resolution was offered by \_\_\_\_\_, seconded by \_\_\_\_\_,  
to wit:

**RESOLUTION APPROVING CERTAIN APPOINTMENTS AND ADMINISTRATIVE  
MATTERS OF THE AGENCY.**

WHEREAS, City of Albany Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 325 of the 1974 Laws of New York, as amended, constituting Section 903-a of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity

and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, under Section 858 of the Act, the Agency has the power to make certain appointments and approve certain administrative matters; and

WHEREAS, as provided in the Agency's by-laws and the Governance Committee Charter, the members of the Governance Committee have reviewed and made certain recommendations on the Agency by-laws and policies; and

WHEREAS, the members of the Agency desire to make certain appointments and approve certain administrative matters;

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

Section 1. The Agency hereby takes the following actions:

(A) Approves the appointments and the administrative matters described in Schedule A attached hereto.

(B) Approves, ratifies and confirms the policies described in Schedule A and contained in the Agency's Policy Manual.

Section 2. The Agency hereby authorizes the Chair and the Chief Executive Officer to take all steps necessary to implement the matters described in Schedule A attached.

Section 3. This Resolution shall take effect immediately.

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

Tracy L. Metzger	VOTING	_____
Susan Peto	VOTING	_____
Hon. Darius Shahinfar	VOTING	_____
Lee E. Eck, Jr.	VOTING	_____
Dominick Calsolaro	VOTING	_____
Jahkeen Hoke	VOTING	_____
Robert T. Schofield, Esq.	VOTING	_____

The Resolution was thereupon declared duly adopted.



## SCHEDULE A

### Confirmation of Regular Agency Meeting Schedule

Third Thursday of each month at 12:15 o'clock p.m., local time

### Appointment of Chief Executive Officer and Staff to the Agency

Sarah Reginelli, Chief Executive Officer  
Mark Opalka, Chief Financial Officer

### Appointment of Accounting Firm of the Agency

Teal, Becker & Chiaramonte, CPAs, P.C.

### Appointment of Agency Counsel

City of Albany Office of Corporation Counsel – Marisa Franchini (see Schedule B)

### Appointment of Bond Counsel to the Agency

Hodgson Russ LLP - A. Joseph Scott, III (see Schedule C)

### Appointments to Governance Committee

Tracy L. Metzger, Chair  
Robert T. Schofield  
Hon. Darius Shahinfar  
Sarah Reginelli, Assistant Secretary  
Mark Opalka, Assistant Treasurer

### Appointments to Audit Committee

Susan Peto, Chair  
Hon. Darius Shahinfar  
Dominick Calsolaro

### Appointments to Finance Committee

Hon. Darius Shahinfar, Chair  
Jahkeen Hoke  
Tracy L. Metzger  
Lee E. Eck, Jr.  
Dominick Calsolaro

### Approval and Confirmation of Agency Policies

See Schedule A Attached Listing Agency Policies

Appointment of Contract Officer

Sarah Reginelli

Appointment of Investment Officer

Mark Opalka

## SCHEDULE A

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SCHEDULE B

PROFESSIONAL SERVICES AGREEMENT

**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: \_\_\_\_\_  
Marisa Franchini

SCHEDULE C  
ENGAGEMENT LETTER

January \_\_, 2020

City of Albany Industrial Development Agency  
21 Lodge Street  
Albany, New York 12207  
Attention: Tracy L. Metzger, Chair

Re: City of Albany Industrial Development Agency  
Legal Services - 2020

Dear Chair Metzger:

We are very pleased that the City of Albany Industrial Development Agency (the “Agency”) has requested us (the “Firm”) to perform certain legal services for the Agency as Bond Counsel and Special Counsel to the Agency. 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 Agency, a courtesy copy of such bill will be sent to the Agency 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 Agency 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 Agency, a courtesy copy of such bill will be sent to the Agency 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 Agency from those illustrated above upon sixty (60) days prior written notice to the Agency.

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

Tracy L. Metzger, Chair  
January \_\_, 2020  
Page 3

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  
INDUSTRIAL DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Chair

## SCHEDULE A

### **Applicant Projects**

#### **Services as Bond Counsel (or Special Counsel)**

Where an applicant (the “Applicant”) requests that the Agency 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 Agency (each separate issue of bonds being sometimes hereinafter referred to as the “Bonds”), we would anticipate acting as bond counsel to the Agency with respect to said transaction. We understand that the Agency has retained Marisa Franchini, Esq., the Corporation Counsel of the City of Albany, as local counsel or Agency Counsel. We further understand that the Agency would retain the option of using other law firms as Bond Counsel to the Agency where our firm has a legal conflict, or where there are special circumstances. In our capacity as Bond Counsel to the Agency, we would work with Ms. Franchini 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 Agency, (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, 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 Agency during the period of our engagement.

Where the Applicant requests that the Agency undertake a Applicant Project and such project will not be financed out of proceeds of Bonds (a “Straight-Lease Transaction”), we would anticipate acting as special counsel to the Agency with respect to said transaction. As a matter of custom and prudence, the Agency and the Applicant require an opinion of counsel indicating that (1) the Straight-Lease Transaction has been properly authorized, and (2) the documents relating thereto have been properly executed by the Agency and are legal, valid and binding special obligations of the Agency. We anticipate rendering such opinions in connection with each Straight-Lease Transaction entered into by the Agency 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 and each Straight Lease Transaction, 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 Industrial Development Agency Act (Article 18-A of the New York General Municipal 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 Agency with respect to the particular project (the “Applicant Project”), together with documents relating to the Agency’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 Agency was created; (B) a transfer of the proposed project facility (the “Project Facility”) by the Applicant (and/or any seller thereof) to the Agency; (C) an installment sale agreement or lease agreement, whereby (1) the Applicant agrees, as agent of the Agency, to undertake and complete the Applicant Project, (2), if the transaction includes Bonds, the Agency agrees to make the proceeds of the Bonds available to pay the costs of the Applicant Project, and (3) the Agency grants to the Applicant the right to occupy the Project Facility and agrees to transfer ownership of the Applicant Project to the

Applicant for a nominal sum (upon repayment of any Bonds); (D) a uniform agency project agreement, which provides for the granting of the “financial assistance” and the enforcement of the conditions for the granting of such “financial assistance,” including any claw-back or other remedy provisions, (E) if the transaction includes Bonds and there are multiple holders of the Bonds, a trust indenture between the Agency and a corporate trustee acting as representative of the owners of the Bonds; (F), if the transaction includes Bonds and if required by the purchasers of the Bonds, a mortgage and/or security agreement from the Agency and the Applicant to the trustee (or the owner of the Bonds); (G), if the transaction includes Bonds, a guaranty of the Bonds from the Applicant to the trustee (or the owner of the Bonds); (H) various other security documents; (I), if the transaction includes Bonds and the Bonds are intended to be issued as federally tax-exempt bonds, various tax compliance documents; (J), if the transaction includes Bonds, a bond purchase agreement among the Agency, the Applicant and the initial purchaser of the Bonds; and (K), if the transaction includes Bonds and 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 or Special 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 an industrial development agency on a regular basis, we typically provide certain pre-application services at no cost to the Agency (or the applicant) unless an application is subsequently filed with the Agency and the transaction subsequently moves beyond the inducement phase. Such pre-application services include providing advice to Agency staff as to whether a proposed transaction meets the requirements of Article 18-A of the New York General Municipal Law (the “Act”); attendance at pre-application meetings with prospective applicants whenever requested by Agency staff; and attendance at seminars and other marketing events organized by Agency staff.

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

Once the Agency 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 or Special 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 Agency or any other party relating to the transaction.

Once an application is filed with the Agency, 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.

For sale/leaseback transactions, we generally charge Applicants a fixed fee in the range of \$5,000-30,000, plus disbursements, depending on the size, timetable and complexity of the matter. The size of the fee may be greater for large, multi-million dollar capital projects (e.g., large co-generation projects, solid-waste projects and wind-farm projects).

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 Agency 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 \$10,000-\$75,000, 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 (3 months for a Straight-Lease Transaction or 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 or Special 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 Agency any additional services to be performed by us prior to our performing them.

We recognize that the Agency will have more applicants and more repeat business if project beneficiaries feel that they have been fairly treated by the Agency and its staff, including legal counsel.

In this regard, we feel almost as a partner with the Agency and often sacrifice short-term gain for the long term interests of the Agency. 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 Agency 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 Agency 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 \$235 and \$885 for lawyers and between \$130 and \$500 for legal assistants. The current hourly rate for A. Joseph Scott, III is \$490/hour. Periodic statements showing the current legal fee due will be made available for review by the Applicant and/or the Agency upon request.

In connection with the issuance of the Bonds or a Straight-Lease Transaction, 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 or the Straight-Lease Transaction 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 Agency 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 Agency in more detail the steps we can take to minimize disbursements.

In performing our services as Bond Counsel or Special Counsel, our primary client relationship will be with the Agency, 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 Agency 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 Agency with respect to said transaction. Examples of Non-Applicant Projects undertaken by industrial development agencies around New York State include offices for the industrial development agency, 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 Agency 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 Agency desires us to undertake with respect to a particular transaction, we will discuss with the Agency 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 Agency 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 Agency memorializing said understanding. Periodic statements showing the current legal fee due will be made available for review by the Agency upon request.

#### Calendar Year 2020 Non-Applicant Projects

We understand that the Agency desires to retain the Firm for various administrative work for the 2020 calendar year. Such work shall include the following:

1. Review and revision of policies and procedures of the Agency
2. Continuing compliance with NYS law regulatory issues

We agree to bill such work at our normal hourly rates and we will deliver itemized bills to the Agency on a quarterly basis. We understand that the Agency has budgeted \$20,000 for such work and we agree to perform such services within that cap.

## 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 Agency, we represent only the Agency. We assume that other parties to a transaction involving the Agency 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 Agency, some of our past, present or future clients will have transactions with the Agency (i.e., as transactional conflict). The Agency 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 Agency (even if the interests of such clients in those other matters is directly adverse to the interests of the Agency); 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 Agency, 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 Agency. In such situation, if the Agency obtains separate counsel to represent the Agency and if the Agency 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 Agency; 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 Agency, 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 Agency to permit the Chair or the Chief Executive Officer of the Agency 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 Agency, our client is the Agency, and we represent its interests in connection with the particular matter. While the Agency takes formal action by resolution of its board (the “Agency Board”), the Chief Executive Officer typically has the day-to-day responsibility for the operations of the Agency and the undertaking of Applicant and Non-applicant Projects. Further, since the members of the Agency Board are appointed officials and not full-time employees of the Agency, 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 Agency.

Accordingly, when we need to communicate information to the Agency, 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 Agency shall be treated as if we had communicated such information to the full membership of the Agency. Further, if in our reasonable judgment we believe it necessary to communicate directly with the full membership of the Agency, we will be permitted to do so.

City of Albany  
**Industrial Development Agency**  
21 Lodge Street  
Albany, New York 12207  
(p): 518.434.2532  
(f): 518.434.9846

Tracy Metzger, Chair  
Susan Pado, 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

**City of Albany Industrial Development Agency**  
**Annual Investment Report**  
**For the Year-Ending 12/31/19**

As required by the City of Albany IDA's (the Agency) investment policy, the annual investment report is hereby submitted for your review. The following chart identifies the depositories of Agency funds as well as balances invested at year-end.

Community Bank, N.A. One Tallman Road Canton, NY 13617	\$3,361,084
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All Agency funds are held in either a money market or checking account at each of the financial institutions listed above and are either covered by FDIC insurance or collateralized. While not included in the New York State Authorities Budget Office definition of "investments," these holdings are considered "investments" by the Agency's policy manual. A summary of the activity in the Agency's checking and money market accounts for the year-ending December 31, 2019 is as follows:

**Checking Accounts**

	<u>Community Bank N.A.</u>
Beginning Balance 1/1/19	\$ 77,440
Additions during year	2,140,546
Withdrawals during year	2,170,599
Interest Earned	<u>0</u>
Ending Balance 12/31/19	<u>\$ 47,387</u>

**Money Market Accounts****Community Bank N.A.**

Beginning Balance 1/1/19	\$2,486,390
Additions during year	1,328,416
Withdrawals during year	527,833
Interest Earned	<u>26,724</u>
Ending Balance 12/31/19	<u>\$3,313,697</u>

Please note that a detailed summary of the cash activity of the Agency is provided at each Board meeting.

**Interest Income:**

Interest income for 2019 was equal to \$26,724 about \$14,324 more than 2018 interest income of \$12,400. This increase in interest income was a result of a higher average monthly balances in the agency's bank accounts due to increased fee revenue as well as higher interest rates earned during 2019.

**Annual Audit:**

The firm of Teal, Becker & Chiarmonte has been engaged to perform an audit of the 2019 financial activity of the Agency. As part of this engagement, Teal, Becker & Chiarmonte will audit the balances of the Agency's depository accounts. This audit is expected to be completed in March 2020.

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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*

In accordance with Section 2896(3) of PAL, the Agency is required to prepare a report at least annually of all real property of the Agency.

Real Property owned as of December 31, 2019: NONE

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Mark Opalka, Chief Financial Officer  
City of Albany Industrial Development Agency