

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 Pado, *Vice Chair*
Darius Shahinfar, *Treasurer*
C. Anthony Owens, *Secretary*
Lee Eck
Dominick Calsolaro
Robert Schofield

Sarah Reginelli, *Chief Executive Officer*
Mark Opalka, *Chief Financial Officer*
John Reilly, *Agency Counsel*

To: Anthony Owens
Darius Shahinfar
Susan Pado
Tracy Metzger
Lee Eck

Cc: Robert Schofield
Dominick Calsolaro

Sarah Reginelli
Mark Opalka
John Reilly
Joe Scott
Brad Chevalier
Andy Corcione
Chantel Burnash

Date: November 4, 2016

IDA FINANCE COMMITTEE AGENDA

PLEASE NOTE THAT A PUBLIC HEARING CONCERNING THE FOLLOWING PROJECT(S) WILL BE HELD AT
12:00pm on Wednesday, November 9th, 2016 at 21 Lodge St, Albany, NY 12207

Capital District Apartments, LLC

A meeting of the Finance Committee of the City of Albany Industrial Development Agency will be held on Wednesday, November 9th at 12:15 PM at 21 Lodge Street, Albany, NY 12207 (Large Conference Room).

Roll Call

Reading of Minutes of the Finance Committee Meeting of October 12, 2016

Approval of Minutes of the Finance Committee Meeting of October 12, 2016

Unfinished Business

- A. Capital District Apartments, LLC (2 Thurlow Terrace)
 - Discussion
 - Positive/Negative Recommendation to Board

New Business

- A. 2017 Professional Services Agreement
 - 1. Legal Services – General Counsel
 - 2. Legal Services – Bond/Special Counsel
 - 3. Professional Services
 - 4. Contract for Services – Economic Development
 - 5. Contract for Services – CRC

- B. Finance Committee Self Evaluation

Other Business

- A. Agency Update

Adjournment

The next regularly scheduled Finance Committee meeting will be held Wednesday, December 14, 2016 at 21 Lodge Street, Albany, NY. Please check the website www.albanyida.com for updated meeting information.

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IDA MINUTES OF FINANCE COMMITTEE MEETING Wednesday, October 12, 2016

Attending: C. Anthony Owens, Tracy Metzger, and Lee Eck

Absent: Susan Pedo and Darius Shahinfar

Also Present: Dominick Calsolaro, Joseph Scott, John Reilly, Sarah Reginelli, Mark Opalka, Andy Corcione, and Chantel Burnash

Chair C. Anthony Owens called the Finance Committee meeting of the IDA to order at 12:19 PM.

Roll Call

Chair C. Anthony Owens reported that all Committee members were present, with the exception of Susan Pedo and Darius Shahinfar.

Reading of Minutes of the September 7, 2016 Finance Committee Meeting

Since the minutes of the previous meeting had been distributed to Committee members in advance for review, Chair C. Anthony Owens made a proposal to dispense with the reading of the minutes.

Approval of Minutes of the September 7, 2016 Finance Committee Meeting

Chair C. Anthony Owens proposed to approve the minutes of the Finance Committee meeting of September 7, 2016. Tracy Metzger moved, seconded by Lee Eck, to accept the minutes as presented. The Members voted unanimously in favor and the motion carried.

Report of Chief Financial Officer

Quarterly Budget Report

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

Unfinished Business

At Hudson Park, LLC (160 Myrtle Avenue) – Discussion and Positive/Negative Recommendation to Board

The Applicant was present to give an overview of the project with the Committee. The Applicant updated the Committee that there will be two less units than originally anticipated. Staff indicated the

change would be reflected. Staff will ensure all necessary procedural approvals are obtained before the project will be considered by the Board.

A motion to move the project to the next Board meeting, after all necessary approvals are obtained, with positive recommendation was made by Lee Eck and seconded by Tracy Metzger. A vote being taken, the motion passed unanimously.

Nipper Apartments, LLC (991 Broadway) – Discussion and Positive/Negative Recommendation to Board

The Applicant was present to give an overview of the project with the Committee. Staff advised the Committee that the project has received positive approval by the Planning Board.

A motion to move the project to the next Board meeting with positive recommendation was made by Tracy Metzger and seconded by Lee Eck. A vote being taken, the motion passed unanimously.

Draft 2017 IDA Budget – Positive/Negative Recommendation to Board

Staff reviewed the updated draft 2017 IDA Budget with the Committee. Staff explained that based on current projections, the anticipated ending cash balance is \$2,162,847 at December 31, 2016. Revenues for the Agency are budgeted to be approx. \$805,674 in 2017. The majority of revenue is projected to be in the form of fee revenue and is budgeted to be approx. \$624,400. To date, one project is projected to close in 2017 and is expected to generate approx. \$305,000 in fee revenue. Expenses for the Agency are budgeted to be approx. \$805,674 in 2017. The proposed budget was reviewed and discussed at the previous Finance Committee meeting.

A motion to move the Draft 2017 IDA Budget to the next Board meeting with positive recommendation was made by Tracy Metzger and seconded by Lee Eck. A vote being taken, the motion passed unanimously.

New Business

Capital District Apartments, LLC (2 Thurlow Terrace) – Project Introduction and Positive/Negative Recommendation for Public Hearing

Staff advised the Committee that Capital District Apartments, LLC is seeking sales tax exemption, mortgage recording tax exemption and a continuation of the current PILOT for the duration of the mortgage. The Applicant was present to provide an introduction of the proposed project at 2 Thurlow Terrace, which includes the acquisition and rehabilitation of 137 affordable housing units. The project consists of one 9-story building and is +/- 85,000 SF. The Applicant expects construction to take 18 months to complete. Residents will not be displaced during construction, and the project will remain affordable housing.

A motion to move the project to the next full Board meeting with positive recommendation for consideration of a public hearing resolution was made by Lee Eck and seconded by Tracy Metzger. A vote being taken, the motion passed unanimously.

Review Statement of Intent and Financing Guidelines Regarding Debt

Staff reviewed the Agency's financing guidelines with the Committee. Staff informed the Committee that it is a requirement and best practice that it is reviewed annually.

Other Business

Agency Update

Staff updated the Committee on the annual overview presentation to the Common Council's Planning, Economic Development and Land Use Committee on September 29th.

There being no further business, Chair C. Anthony Owens adjourned the meeting at 12:35 PM.

Respectfully submitted,

C. Anthony Owens, Secretary

TO: City of Albany Industrial Development Finance Committee

FROM: City of Albany Industrial Development Agency Staff

RE: Capital District Apartments, LLC - IDA Application Summary

DATE: November 4, 2016

Staff Notes:

This project summary is in response to the request for financial assistance which was introduced at the October 12, 2016 Finance Committee meeting. A Public Hearing has been scheduled for November 9, 2016. Please note this project summary will continue to be updated as the project progresses through staff review and Agency consideration.

Applicant: Capital District Apartments, LLC

Managing Members (% of Ownership): GSG LITHC Investor LLC 99.99%; Capital District Apartments MM LLC 0.01%.

Project Location: 2 Thurlow Terrace

Project Description: The project consists of the acquisition and renovation of the existing 136 units of Section 8 senior and handicapped housing located at 2 Thurlow Terrace. The 9-story structure was built in 1979 and encompasses 85,000 SF. Renovations will include, but are not limited to the following: new kitchens and baths including new appliances, replacement of all windows, improvements to common areas and upgrades to the elevators. Additionally, the developer will undertake needed roof repairs, improvements to sidewalks and parking areas, a new boiler system installation and exterior landscaping. The developer intends to sign an agreement to maintain the property as affordable housing for 40 years.

Estimated Project Cost: \$21,650,371 (estimated amount spent to date: \$3,000,000 in deposits)

Type of Financing: Straight Lease

Amount of Bonds Requested: None

Estimated Total Purchases Exempt from Sales Tax: \$2,636,038

Estimated Total Mortgage Amount: \$12,970,000

Current Total Assessment: \$10,697,500 (Per City of Albany Commissioner of Assessment and Taxation on the 2016 Assessment Roll). Current status – tax exempt since 1978

Estimated Improved Total Assessment: \$10,697,500 (Per City of Albany Commissioner of Assessment and Taxation). Assessment value is expected to stay the same after improvements.

Requested PILOT: Applicant proposes entering into a 35-year PILOT agreement with the IDA in which the payment will be 10% of “shelter rents” for 35 years. “Shelter rents” is defined as the total collected annual rents received from the occupants less owner paid utilities. Total rents shall include rent supplements and subsidies received from the federal government, the state, or a municipality on behalf of such occupants. The request is essential for ensuring that the affordability and service continues for senior and handicapped residents.

Estimated Value of Total PILOT Payments:

- Total PILOT Payments: \$8,092,424

Estimated Value of Tax Exemptions:

- NYS Sales and Compensating Use Tax: \$210,883
- Mortgage Recording Taxes: \$162,125
- Real Property Taxes: The property, through a PILOT with the City, has been tax-exempt since 1979. The current owner pays an annual PILOT payment to the city, county, and school equal to 10% of shelter rents.
- Other: N/A

Employment Impact:

- Projected Permanent: 0 jobs
- Projected Retained: 3 jobs
- Projected Construction: 75 jobs

Strategic Initiatives:

- Albany 2030
 - Encourage investment in urban land and historic buildings for employment and housing.
 - Provide a variety of housing types to meet the varied needs of Albany’s households, including market, moderate and low-income housing.
 - Encourage diverse intergenerational housing. Diverse housing includes options for residents throughout different stages of life (e.g. students, couples, families with children, seniors) in the same neighborhood.

Community Benefits Per Project Applicant:

- The project, Thurlow Terrace will not remain viable and maintainable absent a continuation or grant of a tax abatement to coincide with the extension of the HAP Contract. This would enable the Owner, Capital District Apartments, LLC to continue providing affordable housing to its low and very-low income elderly and handicapped residents. Investing in, and keeping 136 affordable elderly and handicapped units affordable for its tenants is our top priority.
- As expanded on in this application, this investment coincides with approximately \$5.4 million dollars in renovations to all aspects of the building. Individual units, common areas, appliances, as well as major capital improvements to the roofing systems, HVAC, elevators, the electrical systems and much more will all be replaced and updated. Quality of life for the elderly and handicapped tenants in this complex is our major concern, and we will see to it that all their needs are addressed through the renovation process.

- The extension of the HAP Contract coincides with a rent increase, which notably does not affect the tenant's monthly housing payments under the Section 8 program. What this will have an effect on is the new, increased revenue provided to taxing jurisdictions. Since the PILOT payments are tied to the effective gross income of the property, and the rents are being increased, upon closing there will be an increase in PILOT payments, from the previous PILOT Agreement by approximately 30%.
- Thurlow Terrace provides a scarce resource in the form of subsidized elderly and handicapped housing. In connection with doing so, provides forms of investment in the local area, in the form of full time, and part time jobs as well as through regular administrative, utility usage and maintenance activities. 2 Full time and 2 Part time jobs will be retained as a result of this investment. Approximately 75 construction related jobs will also be newly created in connection with the renovation of the building.
- The Original Tax Abatement has been critical to Thurlow Terrace's ability to maintain the Project in excellent condition. If Thurlow Terrace is subject to full taxation, it will not be able to raise Section 8 contract rents to make up for the increased tax burden, and would have insufficient funds to adequately operate and maintain the Project, and none of the outlined benefits would be realized.

Planning Board Actions:

- N/A

Estimated IDA Fee

- Fee amount: \$216,503.71

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.

PILOT Analysis – Capital District Apartments LLC													
PILOT Year	City & County Tax Year	School Tax Year	Tax Rate ⁽⁵⁾	Status Quo					Proposed Project				
				Taxable Status		Existing PILOT			Taxable Status		Proposed PILOT		
				Estimated Total Assessment ⁽⁶⁾	Estimated Taxes w/o Existing PILOT ⁽⁷⁾	Estimated Shelter Rents ⁽⁸⁾	Estimated PILOT Payments ⁽⁹⁾	Estimated Abatement ⁽¹⁰⁾	Estimated Total Assessment After Improvements ⁽¹¹⁾	Estimated Taxes w/o Proposed PILOT ⁽¹²⁾	Estimated Shelter Rents ⁽¹³⁾	Estimated PILOT Payments ⁽¹⁴⁾	Estimated Abatement ⁽¹⁵⁾
Current ⁽¹⁾	2016	2016/2017	\$46.49	\$10,697,500	\$497,327	\$1,273,750	\$127,375	\$369,952	-	-	-	-	-
1 ⁽²⁾	2017	2017/2018	\$47.42	\$10,697,500	\$507,273	\$1,291,710	\$129,171	\$378,102	\$10,697,500	\$507,273	\$1,630,806	\$163,081	\$344,193
2	2018	2018/2019	\$48.37	\$10,697,500	\$517,419	\$1,309,923	\$130,992	\$386,426	\$10,697,500	\$517,419	\$1,662,842	\$166,284	\$351,135
3 ⁽³⁾	2019	2019/2020	\$49.34	\$10,697,500	\$527,767	\$1,328,393	\$132,839	\$394,928	\$10,697,500	\$527,767	\$1,695,502	\$169,550	\$358,217
4	2020	2020/2021	\$50.32	\$10,697,500	\$538,322	\$1,347,123	\$134,712	\$403,610	\$10,697,500	\$538,322	\$1,728,797	\$172,880	\$365,443
5	2021	2021/2022	\$51.33	\$10,697,500	\$549,089	\$1,366,118	\$136,612	\$412,477	\$10,697,500	\$549,089	\$1,762,739	\$176,274	\$372,815
6	2022	2022/2023	\$52.36	\$10,697,500	\$560,071	\$1,385,380	\$138,538	\$421,533	\$10,697,500	\$560,071	\$1,797,341	\$179,734	\$380,337
7	2023	2023/2024	\$53.40	\$10,697,500	\$571,272	\$1,404,914	\$140,491	\$430,781	\$10,697,500	\$571,272	\$1,832,615	\$183,262	\$388,011
8	2024	2024/2025	\$54.47	\$10,697,500	\$582,698	\$1,424,723	\$142,472	\$440,225	\$10,697,500	\$582,698	\$1,868,575	\$186,858	\$395,840
9	2025	2025/2026	\$55.56	\$10,697,500	\$594,352	\$1,444,812	\$144,481	\$449,870	\$10,697,500	\$594,352	\$1,905,234	\$190,523	\$403,828
10	2026	2026/2027	\$56.67	\$10,697,500	\$606,239	\$1,465,184	\$146,518	\$459,720	\$10,697,500	\$606,239	\$1,942,604	\$194,260	\$411,978
11	2027	2027/2028	\$57.80	\$10,697,500	\$618,363	\$1,485,843	\$148,584	\$469,779	\$10,697,500	\$618,363	\$1,980,699	\$198,070	\$420,293
12	2028	2028/2029	\$58.96	\$10,697,500	\$630,731	\$1,506,793	\$150,679	\$480,051	\$10,697,500	\$630,731	\$2,019,533	\$201,953	\$428,777
13	2029	2029/2030	\$60.14	\$10,697,500	\$643,345	\$1,528,039	\$152,804	\$490,541	\$10,697,500	\$643,345	\$2,059,121	\$205,912	\$437,433
14	2030	2030/2031	\$61.34	\$10,697,500	\$656,212	\$1,549,584	\$154,958	\$501,254	\$10,697,500	\$656,212	\$2,099,477	\$209,948	\$446,264
15	2031	2031/2032	\$62.57	\$10,697,500	\$669,336	\$1,571,433	\$157,143	\$512,193	\$10,697,500	\$669,336	\$2,140,615	\$214,061	\$455,275
16	2032	2032/2033	\$63.82	\$10,697,500	\$682,723	\$1,593,590	\$159,359	\$523,364	\$10,697,500	\$682,723	\$2,182,550	\$218,255	\$464,468
17	2033	2033/2034	\$65.10	\$10,697,500	\$696,378	\$1,616,060	\$161,606	\$534,772	\$10,697,500	\$696,378	\$2,225,297	\$222,530	\$473,848
18	2034	2034/2035	\$66.40	\$10,697,500	\$710,305	\$1,638,847	\$163,885	\$546,420	\$10,697,500	\$710,305	\$2,268,873	\$226,887	\$483,418
19	2035	2035/2036	\$67.73	\$10,697,500	\$724,511	\$1,661,954	\$166,195	\$558,316	\$10,697,500	\$724,511	\$2,313,291	\$231,329	\$493,182
20	2036	2036/2037	\$69.08	\$10,697,500	\$739,001	\$1,685,388	\$168,539	\$570,463	\$10,697,500	\$739,001	\$2,358,570	\$235,857	\$503,144
21	2037	2037/2038	\$70.46	\$10,697,500	\$753,781	\$1,709,152	\$170,915	\$582,866	\$10,697,500	\$753,781	\$2,404,724	\$240,472	\$513,309
22	2038	2038/2039	\$71.87	\$10,697,500	\$768,857	\$1,733,251	\$173,325	\$595,532	\$10,697,500	\$768,857	\$2,451,771	\$245,177	\$523,680
23	2039	2039/2040	\$73.31	\$10,697,500	\$784,234	\$1,757,690	\$175,769	\$608,465	\$10,697,500	\$784,234	\$2,499,728	\$249,973	\$534,261
24	2040	2040/2041	\$74.78	\$10,697,500	\$799,919	\$1,782,473	\$178,247	\$621,672	\$10,697,500	\$799,919	\$2,548,611	\$254,861	\$545,058
25	2041	2041/2042	\$76.27	\$10,697,500	\$815,917	\$1,807,606	\$180,761	\$635,157	\$10,697,500	\$815,917	\$2,598,439	\$259,844	\$556,073
26	2042	2042/2043	\$77.80	\$10,697,500	\$832,236	\$1,833,093	\$183,309	\$648,926	\$10,697,500	\$832,236	\$2,649,229	\$264,923	\$567,313
27	2043	2043/2044	\$79.35	\$10,697,500	\$848,880	\$1,858,940	\$185,894	\$662,986	\$10,697,500	\$848,880	\$2,700,999	\$270,100	\$578,780
28	2044	2044/2045	\$80.94	\$10,697,500	\$865,858	\$1,885,151	\$188,515	\$677,343	\$10,697,500	\$865,858	\$2,753,768	\$275,377	\$590,481
29	2045	2045/2046	\$82.56	\$10,697,500	\$883,175	\$1,911,731	\$191,173	\$692,002	\$10,697,500	\$883,175	\$2,807,555	\$280,756	\$602,420
30	2046	2046/2047	\$84.21	\$10,697,500	\$900,839	\$1,938,687	\$193,869	\$706,970	\$10,697,500	\$900,839	\$2,862,380	\$286,238	\$614,601
31	2047	2047/2048	\$85.89	\$10,697,500	\$918,855	\$1,966,022	\$196,602	\$722,253	\$10,697,500	\$918,855	\$2,918,261	\$291,826	\$627,029
32	2048	2048/2049	\$87.61	\$10,697,500	\$937,232	\$1,993,743	\$199,374	\$737,858	\$10,697,500	\$937,232	\$2,975,218	\$297,522	\$639,711
33	2049	2049/2050	\$89.36	\$10,697,500	\$955,977	\$2,021,855	\$202,186	\$753,792	\$10,697,500	\$955,977	\$3,033,272	\$303,327	\$652,650
34	2050	2050/2051	\$91.15	\$10,697,500	\$975,097	\$2,050,363	\$205,036	\$770,060	\$10,697,500	\$975,097	\$3,092,444	\$309,244	\$665,852
35 ⁽⁴⁾	2051	2051/2052	\$92.97	\$10,697,500	\$994,599	\$2,079,273	\$207,927	\$786,671	\$10,697,500	\$994,599	\$3,152,755	\$315,276	\$679,323
Permanent	2052	2052/2053	\$94.83	\$10,697,500	\$1,014,491	-	-	-	\$10,697,500	\$1,014,491	-	-	-
Estimated Totals ⁽¹⁶⁾							\$5,793,484	\$19,567,380		\$25,360,864		\$8,092,424	\$17,268,440

Notes:

- (1) Project would likely close with Agency by end of 2016. Property has been tax-exempt since 1979 via a PILOT agreement with the City of Albany. PILOT payments of \$127,375 were remitted to the City of Albany by March 31, 2016 for city, county, and school.
- (2) Estimated start of Proposed PILOT agreement with payments to city, county, and school.
- (3) Existing PILOT agreement with City of Albany expires. Property would need a PILOT to maintain affordability and service for residents. Assumes an extended PILOT without proposed improvements associated with proposed project.
- (4) Proposed PILOT agreement is anticipated to expire.
- (5) Estimated non homestead tax rate (does not include any special ad volereum taxes that are still payable under PILOT) based on City and County 2016 tax year and School 2015/2016 tax year with estimated escalation of 2.0% thereafter.
- (6) Per Commissioner of Department of Assessment & Taxation Current Assessment Value (2016 assessment roll).
- (7) Estimated taxes if existing property was on taxable portion of the City of Albany tax rolls. Property has been tax-exempt since 1979 via a PILOT agreement with the City of Albany. Maintaining affordability and service would not be possible.
- (8) Estimated as total collected tenant rents, including subsidies, less owner paid utilities.
- (9) Estimated PILOT Payments calculated as 10.0% of shelter rents.
- (10) Difference of Estimated PILOT Payments from Estimated Total Taxes w/o Proposed PILOT. Property has been tax-exempt since 1979. Assumes completion of existing PILOT and an extended PILOT without proposed improvements associated with proposed project.
- (11) Per letter from the Commissioner of Department of Assessment & Taxation. Assessment value is not expected to change. Assessment is not fixed.
- (12) Estimated taxes if proposed project occurred without PILOT assistance. Property has been tax-exempt since 1979 via a PILOT agreement with the City of Albany. Maintaining affordability and service would not be possible.
- (13) Estimated Shelter Rents calculated as total collected tenant rents, including subsidies, less 5.0% vacancy and owner paid utilities per Applicant.
- (14) Estimated PILOT Payments calculated as 10.0% of Shelter Rents.
- (15) Difference of Estimated PILOT Payments from Estimated Total Taxes w/o Proposed PILOT. Property has been tax-exempt since 1979. Assumes proposed PILOT with proposed improvements associated with proposed project.
- (16) Totals for comparison and analysis during PILOT Agreement period only.

Analysis is ONLY an estimate

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, 2017 (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, 2017 and continuing until December 31, 2017. 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, 2017.

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: _____
[_____]

January __, 2017

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 - 2017

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.

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, 2017

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 John J. Reilly, 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 Mr. Reilly 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 project benefits 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 \$190 and \$750 for lawyers and between \$115 and \$350 for legal assistants. The current hourly rate for A. Joseph Scott, III is \$440/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 2017 Non-Applicant Projects

We understand that the Agency desires to retain the Firm for various administrative work for the 2017 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 \$10,000 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 54 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.

PROFESSIONAL SERVICES AGREEMENT
Between
CAPITALIZE ALBANY CORPORATION (CAC)

and

CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY (CAIDA)

and

CITY OF ALBANY CAPITAL RESOURCE CORPORATION (CACRC)

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

WITNESSETH:

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

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

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

ARTICLE 1 -SERVICES TO BE PERFORMED

The CAC shall perform the professional and administrative support services set forth under Article 2 entitled "SCOPE OF PROFESSIONAL SERVICES" during the period commencing on January 1, 2017 and continuing until December 31, 2017. In the performance and acceptance of the services herein, the parties understand, acknowledge and agree that the CAC is assuming no managerial role, nor undertaking any oversight responsibilities with

regard to the powers and duties of the CAIDA or the CACRC or the actions or non-actions of its Board of Directors. Nothing in this agreement should be construed to transfer governance, oversight or fiduciary responsibilities from the CAIDA or the CACRC to CAC.

ARTICLE 2 - SCOPE OF PROFESSIONAL SERVICES

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

ARTICLE 3 - PROFESSIONAL SERVICES FEE

In consideration of the terms and conditions of this agreement, the AIDA agrees to pay and the CAC agrees to accept, as full compensation for all services rendered under this agreement an amount not to exceed \$348,582. The CAC shall provide professional staff time towards fulfillment of this agreement, including all administrative clerical, secretarial, accounting, compliance, and information technology support as required.

ARTICLE 4 - METHOD OF PAYMENT

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

ARTICLE 5 - TERMINATION

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

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

ARTICLE 6 – MUTUAL INDEMNIFICATION

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

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

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

ARTICLE 7 - EQUAL EMPLOYMENT OPPORTUNITY

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

ARTICLE 8 - ACCOUNTING RECORDS

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

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

City of Albany Industrial Development Agency

By: _____
Chairman

City of Albany Capital Resource Corporation

By: _____
Chairman

Capitalize Albany Corporation

By: _____
Chairman

SCHEDULE A

DESCRIPTION OF SERVICES

A. City of Albany Industrial Development Agency:

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

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

B. City of Albany Capital Resource Corporation:

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

CONTRACT FOR SERVICES

THIS AGREEMENT dated as of January XX, 2017 (the “Agreement”) between **CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY** (the “Agency”), a public benefit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 21 Lodge Street, Albany, New York, and **CAPITALIZE ALBANY CORPORATION** (the “CAC”), 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;

WITNESSETH:

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 Laws of 1974 of the State of New York, as amended, codified as Section 903-a of the 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 or 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 promote, develop, and encourage one or more “projects” (as defined in the Act) and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the City of Albany and to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, pursuant to a professional services agreement dated January XX, 2017 (the “Services Agreement”) by and between the Agency, the City of Albany Capital Resource Corporation (“the CACRC”), and the CAC, the Agency has contracted with the CAC for the administration of the Agency; and

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

WHEREAS, in order to assist the CAC in undertaking the Economic Development Program, the Agency proposes to enter into this Agreement under which the Agency will provide funds to the CAC to pay a portion of the costs associated with the Economic Development Program; and

WHEREAS, the Agency will provide funds to the CAC in multiple disbursements during the term of this Agreement; and

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

1. **Services and Program.** The Agency and the CAC agree as follows:
 - (a) That the Agency will make available to the CAC an aggregate amount equal to \$250,000.
 - (b) That the proceeds will be used for the express purpose of funding a portion of the costs, both capital and operating costs, of the Economic Development Program of the CAC, including, but not limited to the following: (i) implementation of the Capitalize Albany strategy, (ii) general business development, including Empire Zone administration, (iii) lending programs (including loan origination, loan capitalization, and loan servicing), (iv) Downtown Residential Program, and (v) coordination and fiscal support of neighborhood and riverfront re-development.
2. **Disbursement.** Proceeds shall be paid quarterly by the Agency to the CAC in an amount equal to \$62,500 on or about the last day of the quarter, commencing on March 31, 2017 and ending on December 31, 2017. Disbursement of proceeds under this agreement based upon available cash.
3. **Compliance with Law.** The CAC covenants that it will use the moneys disbursed under this Agreement only in the manner authorized by this Agreement.
4. **Repayment.** Nothing herein shall be construed to require the CAC to reimburse the Agency.
5. **Information.** The CAC agrees to furnish to the Agency, the following: (a) progress reports regarding the Economic Development Program, (b) upon request, a financial report indicating how the proceeds are allocated; and (c) such other information as the Agency may request. In addition, the CAC shall provide the Agency with an annual report regarding the Economic Development Program.
6. **Indemnification.**
 - a. To the fullest extent permitted by law, the CAC shall defend, indemnify and hold harmless the Agency and its agents and employees from and against claims, damages, losses and expenses, including, but not limited to reasonable attorneys' fees, arising out of or resulting from the negligence or willful misconduct of CAC in CAC's performance of the tasks detailed in this Agreement, except if such claims, damages, losses or expenses are caused by the Agency's negligence or willful misconduct.
 - b. To the fullest extent permitted by law, the Agency shall defend, indemnify and hold harmless the CAC and its agents and employees from and against claims, damages, losses and expenses, including, but not limited to reasonable attorneys' fees, arising out of or resulting from the negligence or willful misconduct of Agency related to Agency's obligations in this Agreement, except if such claims, damages, losses or expenses are caused by the CAC's negligence or willful misconduct.
7. **Notices.** (a) All notices and other communications hereunder shall be in writing and shall be deemed given when mailed by United States registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

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

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

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

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

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

CITY OF ALBANY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____
Authorized Officer

CAPITALIZE ALBANY CORPORATION

BY: _____
Authorized Officer

CONTRACT FOR SERVICES

THIS **AGREEMENT** dated as of January XX, 2017 (the “Agreement”) between **CITY OF ALBANY CAPITAL RESOURCE CORPORATION** (the “Corporation”), a not-for-profit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 21 Lodge Street, Albany, New York, and **CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY** (the “Agency”), a public benefit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 21 Lodge Street, Albany, New York;

WITNESSETH:

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

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

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

WHEREAS, pursuant to a professional services contract dated January XX, 2017 (the “Professional Services Agreement”) by and among the Corporation, the Agency and Capitalize Albany Corporation (the “CAC”), the Corporation has contracted with the CAC for the management of the operations of the Corporation; and

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

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

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

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

1. **Services and Program.** The Corporation and the Agency agree as follows:
 - (a) That the Corporation will make available to the Agency an aggregate amount currently budgeted at \$64,359, but not to exceed \$174,291 (50% of the Professional Service Agreement). Actual aggregate amount due will be based on the Corporation's percentage of total project fees collected of both the Agency and the Corporation in 2017.
 - (b) That the proceeds will be used for the express purpose of funding a portion of the costs of the amounts payable under the Professional Services Agreement.
2. **Disbursement.** Proceeds shall be paid by the Corporation to the Agency on or about the last day of 2017. Disbursement of proceeds is based upon available cash.
3. **Compliance with Law.** The Agency covenants that it is aware of the laws governing the Corporation and the use of moneys of the Corporation, and the Agency agrees to use the moneys disbursed under this Agreement only in the manner so allowed.
4. **Repayment.** Nothing herein shall be construed to require the Agency to reimburse the Corporation.
5. **Information.** The Agency agrees to furnish to the Corporation, the following: (a) a financial report indicating how the proceeds are being spent; and (b) such other information as the Corporation may request. In addition, the Agency shall provide the Corporation with a copy of an annual report regarding the Economic Development Program.
6. **Indemnification.** To the fullest extent permitted by law, the Agency shall defend, indemnify and hold harmless the Corporation and its agents and employees from and against claims, damages, losses and expenses, including, but not limited to reasonable attorneys' fees, arising out of or resulting from the negligence or willful misconduct of Agency related to Agency's obligations in this Agreement, except if such claims, damages, losses or expenses are caused by the Corporation's gross negligence or willful misconduct.

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

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

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

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

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

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

CITY OF ALBANY CAPITAL RESOURCE
CORPORATION

BY: _____
Authorized Officer

CITY OF ALBANY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____
Authorized Officer

City of Albany
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*
C. Anthony Owens, *Secretary*
Lee Eck
Dominick Calsolaro
Robert Schofield

Sarah Reginelli, *Chief Executive Officer*
Mark Opalka, *Chief Financial Officer*
John Reilly, *Agency Counsel*

CAIDA Finance Committee 2016 Self Evaluation

1. Meetings

- During 2016, the Finance Committee met a minimum of nine (9) times (the charter requires the Committee to meet a minimum of 2 times per year, plus any additional meetings as needed).
- All meetings were properly noticed and open to the public as required, and all agendas, meeting materials and minutes were made available to the public in advance of each meeting on the agency's website.
- Meeting materials were provided to board members in advance of each meeting.
- Minutes of each meeting were regularly prepared, distributed to board members and posted on the agency's website.

2. 2016 Summary of Activities

The following is a summary of the Finance Committee's activities and recommendations to the Board of Directors regarding agency operations during 2016.

Actions taken:

- Reviewed and made recommendations, as necessary, to update the Finance Committee charter.
- Reviewed the agency's investment and procurement policies.
- Reviewed and recommended to the Board the agency's annual budget, including major proposed transactions.
- Reviewed quarterly financial reports.
- Reviewed the annual investment report of the Agency.
- Reviewed the agency's financing guidelines.
- Met with and requested information from agency staff, independent auditors and advisors or outside counsel, as necessary, to perform the duties of the Committee.
- Made recommendations concerning the appointment and compensation of bond and agency counsel.
- Conducted a self-evaluation of Committee performance.

- Reported annually to the agency's board about how it has discharged its duties and met its responsibilities.

Other Activities:

- Vetted project applications for financial assistance.
- Reviewed project financial information and recommended level of financial assistance to applicants.
- Reviewed and approved modifications to closing documents.
- Reviewed the annual property report of the Agency.
- Supported and provided input for strategic planning for the agency.

3. Compliance

- During 2016, the Committee complied with NYS ABO and PAAA requirements.
- The Committee complied with its functions as regards to Board reporting and regulatory compliance.