

# 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: Tracy Metzger  
Darius Shahinfar  
Susan Pado  
Anthony Owens  
Lee Eck  
Dominick Calsolaro  
Robert Schofield

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

Date: April 17, 2015

## AGENDA

A regular meeting of the City of Albany Industrial Development Agency will be held on  
**Thursday, April 23<sup>rd</sup> at 12:15 PM** at 21 Lodge Street, Albany, NY 12207

### Roll Call

### Reading of Minutes of the Board Meeting of March 19<sup>th</sup>, 2015

### Approval of Minutes of the Board Meeting of March 19<sup>th</sup>, 2015

### Reports of Committees

#### Report of Chief Financial Officer

- Financial Report

#### Unfinished Business

- None

#### New Business

- 40-48 S Pearl Street, LLC
  - Public Hearing Resolution
- Broadway Albany Realty, LLC
  - Project Introduction
  - Public Hearing Resolution
- 67 Howard Street, LLC
  - Project Update
    - (a) SEQR Resolution for Amended Project
    - (b) Amended Approving Resolution
- Strategic Transition Plan Policy Enhancements
  - Project Monitoring and Enhancement – Approval Resolution

#### Other Business

- CEO Report

#### Adjournment

The next regularly scheduled Board meeting will be held Thursday, May 21, 2015

# Albany Industrial Development Agency

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Telephone: (518) 434-2532  
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Tracy Metzger, *Chair*  
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Sarah Reginelli, *Chief Executive Officer*  
Mark Opalka, *Chief Financial Officer*  
John Reilly, *Agency Counsel*

## IDA MINUTES OF REGULAR MEETING Thursday, March 19, 2015

Attending: Tracy Metzger, Darius Shahinfar, C. Anthony Owens, Dominick Calsolaro, Lee Eck and Susan Pedo

Absent: Robert Schofield

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

Chair Tracy Metzger called the regular meeting of the IDA to order at 12:17 PM.

### Roll Call

Chair Tracy Metzger reported that all Board members were present with the exception of Robert Schofield.

### Reading of Minutes of the February 19, 2015 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.

### Approval of Minutes of the February 19, 2015 Board Meeting

Chair Tracy Metzger made a proposal to approve the minutes of the Board Meeting of February 19, 2015 as presented. A motion to accept the minutes, as presented, was made by Lee Eck and seconded by C. Anthony Owens. A vote being taken, the minutes were accepted unanimously.

### Reports of Committees

None

### Unfinished Business

#### CDP Holland, LLC

Counsel briefly reviewed the four resolutions relating to CDP Holland, LLC, in the materials.

Chair Tracy Metzger presented the CDP Holland, LLC Project – Resolution Confirming SEQR Determination to the Board. A motion to adopt the Resolution was made by Susan Pedo and seconded by Darius Shahinfar. A vote being taken, the resolution passed unanimously.

Chair Tracy Metzger presented the CDP Holland, LLC Project – Commercial/Retail Findings Resolution to the Board. A motion to adopt the Resolution was made by C. Anthony Owens and seconded by Darius Shahinfar. A vote being taken, the resolution passed unanimously.

Chair Tracy Metzger presented the CDP Holland, LLC Project – PILOT Deviation Approval Resolution to the Board. A motion to adopt the Resolution was made by C. Anthony Owens and seconded by Susan Pado. A vote being taken, the resolution passed unanimously.

Chair Tracy Metzger presented the CDP Holland, LLC Project – Approving Resolution to the Board. A motion to adopt the Resolution was made by C. Anthony Owens and seconded by Darius Shahinfar. A vote being taken, the resolution passed unanimously.

#### 1475 Washington Avenue Associates, LLC (f/k/a SUNY Associates, LLC)

Counsel briefly reviewed the four resolutions relating to 1475 Washington Avenue Associates, LLC, in the materials.

Chair Tracy Metzger presented the 1475 Washington Avenue Associates, LLC (f/k/a SUNY Associates, LLC) – Resolution Confirming SEQR Determination to the Board. A motion to adopt the Resolution was made by C. Anthony Owens and seconded by Darius Shahinfar. A vote being taken, Tracy Metzger, Darius Shahinfar, C. Anthony Owens, Lee Eck, and Dominick Calsolaro voted “YES”. Susan Pado abstained from the vote. The resolution passed.

Chair Tracy Metzger presented the 1475 Washington Avenue Associates, LLC (f/k/a SUNY Associates, LLC) – Commercial/Retail Findings Resolution to the Board. A motion to adopt the Resolution was made by C. Anthony Owens and seconded by Darius Shahinfar. A vote being taken, Tracy Metzger, Darius Shahinfar, C. Anthony Owens, and Dominick Calsolaro voted “YES”. Lee Eck voted “NO”. Susan Pado abstained from the vote. The resolution passed.

Chair Tracy Metzger presented the 1475 Washington Avenue Associates, LLC (f/k/a SUNY Associates, LLC) – PILOT Deviation Approval Resolution to the Board. A motion to adopt the Resolution was made by C. Anthony Owens and seconded by Darius Shahinfar. A vote being taken, Tracy Metzger, Darius Shahinfar, C. Anthony Owens, and Dominick Calsolaro voted “YES”. Lee Eck voted “NO”. Susan Pado abstained from the vote. The resolution passed.

Chair Tracy Metzger presented the 1475 Washington Avenue Associates, LLC (f/k/a SUNY Associates, LLC) – Approving Resolution to the Board. A motion to adopt the Resolution was made by C. Anthony Owens and seconded by Darius Shahinfar. A vote being taken, Tracy Metzger, Darius Shahinfar, C. Anthony Owens, and Dominick Calsolaro voted “YES”. Lee Eck voted “NO”. Susan Pado abstained from the vote. The resolution passed.

## **New Business**

#### 40-48 S. Pearl Street, LLC

Chris Maddalone and Seth Meltzer of 40-48 S. Pearl Street, LLC provided an introduction of their potential project at 40-48 S. Pearl Street. The project is the revitalization of two adjoining vacant buildings encompassing 24,000 square feet directly across from the Times Union Center. The property will be converted into 16 market rate apartments on the upper floors, a restaurant and three retail spaces at ground level. There are ten parking spots available for tenants. Presenters advised the Board that they will be submitting a formal application. No formal action was taken.

#### Strategic Transition Plan Policy Enhancements

Staff briefly reviewed the three resolutions relating to strategic transition plan policy enhancements, in the materials, which has been forwarded to the full Board with positive recommendations from the Governance Committee. Counsel added that the discussion at the Governance Committee meeting was robust, with many well thought out comments and recommended changes.

Chair Tracy Metzger presented the Policy Respecting Recapture of Project Benefits – Approval Resolution to the Board. A motion to adopt the Resolution was made by C. Anthony Owens and seconded by Lee Eck. A vote being taken, the resolution passed unanimously.

Chair Tracy Metzger presented the Conduct and Notification of Public Hearings - Approval Resolution to the Board. A motion to adopt the Resolution was made by Lee Eck and seconded by C. Anthony Owens. A vote being taken, the resolution passed unanimously.

Chair Tracy Metzger presented the Media Relations Policy and Guidelines - Approval Resolution to the Board. A motion to adopt the Resolution was made by Lee Eck and seconded by C. Anthony Owens. A vote being taken, the resolution passed unanimously.

#### Annual Reporting

Audit Committee Chair Susan Pedo informed the Board that the Audit Committee met with Sarah Robinson, a representative of Teal, Becker and Chiramonte, last week. Ms. Robinson reviewed the draft 2014 audited financial statements, in detail, with the Committee and noted the Agency received a clean opinion.

Chair Tracy Metzger presented the Draft 2014 Audited Financial Statements, Draft 2014 Annual Report, Draft 2014 Procurement Report, and Draft 2014 Investment Report to the Board. A motion to accept the drafts, subject to any additional updates, was made by Susan Pedo and seconded by Lee Eck. A vote being taken, the motion passed unanimously.

#### **Reports of the Chief Financial Officer**

Mark Opalka distributed the monthly financial report in advance for review.

#### **Other Business**

Staff distributed two correspondence letters to the Board: letter of support for Kenwood Apartments, LLC and letter from New York State Historic Preservation Office (SHPO).

Staff introduced new Capitalize Albany Corporation staff member Sabina Mora to the Board. Sabina is a Senior Economic Developer and will focus heavily on the IDA. Staff mentioned that Ashley Lavigne, also a Senior Economic Developer, has joined the team.

Staff informed the Board that the audit with the City Auditor of the City of Albany has begun. The entrance interview was last week and the Auditor has not determined a scope at this time.

Board member, Lee Eck, proposed the Board take OSHA training classes to learn safety protocols as the Board begins to take on bigger projects.

There being no further business, Chair Tracy Metzger adjourned the meeting at 12:48 PM.

Respectfully submitted,

---

C. Anthony Owens, Secretary

**City of Albany IDA**  
2015 Monthly Cash Position  
March 2015

	<i>Actual</i>			<i>Projected</i>									
	January	February	March	April	May	June	July	August	September	October	November	December	YTD Total
<b>Beginning Balance</b>	\$ 1,956,693	\$ 2,068,108	\$ 2,023,978	\$ 2,457,184	\$ 2,492,192	\$ 2,821,931	\$ 2,713,694	\$ 2,688,406	\$ 2,892,855	\$ 2,786,319	\$ 2,761,033	\$ 2,735,746	\$ 1,956,693
<b>Revenue</b>													
<b>Fee Revenue</b>													
Application Fee	\$ 1,500	\$ 3,000	\$ 1,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,000
Agency Fee	-	-	525,835	62,000	355,030	-	-	229,737	-	-	-	-	1,172,602
Administrative Fee	-	-	50,460	-	-	-	-	-	-	-	-	-	50,460
Modification Fee	-	500	500	-	-	-	-	-	-	-	-	-	1,000
<b>Subtotal - Fee Revenue</b>	\$ 1,500	\$ 3,500	\$ 578,295	\$ 62,000	\$ 355,030	\$ -	\$ -	\$ 229,737	\$ -	\$ -	\$ -	\$ -	\$ 1,230,062
<b>Other Revenue</b>													
Project Benefit Agreement	\$ 100,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100,000
9% LIHTC Fee	10,000	-	10,000	-	-	-	-	-	-	-	-	-	20,000
Interest Income	34	31	42	41	42	47	45	45	48	46	46	46	513
CRC	-	-	-	-	-	-	-	-	-	-	-	45,000	45,000
NYS BIC	-	-	-	-	-	-	-	-	-	-	-	-	-
Misc	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Subtotal - Other Revenue</b>	\$ 110,034	\$ 31	\$ 10,042	\$ 41	\$ 42	\$ 47	\$ 45	\$ 45	\$ 48	\$ 46	\$ 46	\$ 45,046	\$ 165,513
<b>Total - Revenue</b>	\$ 111,534	\$ 3,531	\$ 588,337	\$ 62,041	\$ 355,072	\$ 47	\$ 45	\$ 229,782	\$ 48	\$ 46	\$ 46	\$ 45,046	\$ 1,395,576
<b>Expenditures</b>													
Management Contract	\$ -	-	\$ 75,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 300,000
Downtown Tactical Plan	-	-	-	-	-	-	-	-	-	-	-	-	-
APA Contract	-	-	-	-	-	-	-	-	-	-	-	-	-
Audits	-	5,300	-	1,700	-	-	-	-	-	-	-	-	7,000
Agency Counsel	-	42,000	-	-	-	-	-	-	-	-	-	-	42,000
ED Support	-	-	62,500	-	-	62,500	-	-	62,500	-	-	62,500	250,000
Sub-lease AHCC	-	-	17,232	-	-	18,750	-	-	18,750	-	-	18,750	73,482
NYS BIC	-	-	-	-	-	-	-	-	-	-	-	-	-
D & O Insurance	-	-	-	-	-	1,700	-	-	-	-	-	-	1,700
Misc.	119	361	399	333	333	334	333	333	334	333	333	334	3,879
Legal Expenses	-	-	-	-	-	-	-	-	-	-	-	5,000	5,000
Other Expenses	-	-	-	-	-	-	-	-	-	-	-	1,000	1,000
<b>Total - Expenditures</b>	\$ 119	\$ 47,661	\$ 155,131	\$ 27,033	\$ 25,333	\$ 108,284	\$ 25,333	\$ 25,333	\$ 106,584	\$ 25,333	\$ 25,333	\$ 112,584	\$ 684,062
<b>Ending Balance</b>	\$ 2,068,108	\$ 2,023,978	\$ 2,457,184	\$ 2,492,192	\$ 2,821,931	\$ 2,713,694	\$ 2,688,406	\$ 2,892,855	\$ 2,786,319	\$ 2,761,033	\$ 2,735,746	\$ 2,668,207	\$ 2,668,207

# City of Albany IDA

Fee Detail by Month

March 2015

	Name	Application Fee	Agency Fee	Administration Fee	Modification Fee	TOTAL FEE
<i>January</i>	SUNY Associates	\$ 1,500	\$ -	\$ -	\$ -	\$ 1,500
	<b>TOTAL</b>	<b>\$ 1,500</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,500</b>
<i>February</i>	Kenwood LLC	\$ 1,500	\$ -	\$ -	\$ -	\$ 1,500
	One Columbia Place Realty LLC	1,500	-	-	-	1,500
	Penta On Broadway LLC	-	-	-	500	500
	<b>TOTAL</b>	<b>\$ 3,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 500</b>	<b>\$ 3,500</b>
<i>March</i>	Park South Partners	\$ -	\$ 525,835	\$ -	\$ -	\$ 525,835
	AFP 107 Corporation	-	-	500	500	1,000
	Albany Hotel LLC	-	-	49,960	-	49,960
	40-48 South Peal Street, LLC	1,500	-	-	-	-
	<b>TOTAL</b>	<b>\$ 1,500</b>	<b>\$ 525,835</b>	<b>\$ 50,460</b>	<b>\$ 500</b>	<b>\$ 578,295</b>
<i>April</i>	Eleftheria Properties, LLC	\$ -	\$ 62,000	\$ -	\$ -	\$ 62,000
	<b>TOTAL</b>	<b>\$ -</b>	<b>\$ 62,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 62,000</b>
<i>May</i>	1475 Washington Avenue Associates, LLC	\$ -	\$ 275,000	\$ -	\$ -	\$ 275,000
	67 Howard Street, LLC	-	80,030	-	-	80,030
	<b>TOTAL</b>	<b>\$ -</b>	<b>\$ 355,030</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 355,030</b>
<i>June</i>		\$ -	\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -	\$ -

# City of Albany IDA

Fee Detail by Month

March 2015

	Name	Application Fee	Agency Fee	Administration Fee	Modification Fee	TOTAL FEE
<i>July</i>		\$ -	\$ -	\$ -	\$ -	\$ -
	<b>TOTAL</b>	\$ -	\$ -	\$ -	\$ -	\$ -
<i>August</i>	CDP Holland, LLC	\$ -	\$ 229,737	\$ -	\$ -	\$ 229,737
	<b>TOTAL</b>	\$ -	\$ 229,737	\$ -	\$ -	\$ 229,737
<i>September</i>		\$ -	\$ -	\$ -	\$ -	\$ -
	<b>TOTAL</b>	\$ -	\$ -	\$ -	\$ -	\$ -
<i>October</i>		\$ -	\$ -	\$ -	\$ -	\$ -
	<b>TOTAL</b>	\$ -	\$ -	\$ -	\$ -	\$ -
<i>November</i>		\$ -	\$ -	\$ -	\$ -	\$ -
	<b>TOTAL</b>	\$ -	\$ -	\$ -	\$ -	\$ -
<i>December</i>		\$ -	\$ -	\$ -	\$ -	\$ -
	<b>TOTAL</b>	\$ -	\$ -	\$ -	\$ -	\$ -
	<b>2015 TOTAL</b>	\$ 6,000 <i>Application Fee</i>	\$ 1,172,602 <i>Agency Fee</i>	\$ 50,460 <i>Administration Fee</i>	\$ 1,000 <i>Modification Fee</i>	\$ 1,230,062 <i>TOTAL FEE</i>

**PUBLIC HEARING RESOLUTION  
40-48 S PEARL STREET 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 April 23, 2015 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
C. Anthony Owens	Secretary
Hon. Darius Shahinfar	Treasurer
Dominick Calsolaro	Member
Lee Eck	Member
Robert T. Schofield	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Sarah Reginelli	Chief Executive Officer
Bradley Chevalier	Vice President, Director of Development, Capitalize Albany Corporation
Mark Opalka	Chief Financial Officer
Sabina Mora	Senior Economic Developer, Capitalize Albany Corporation
Andrew Corcione	Economic Developer, Capitalize Albany Corporation
Chantel Burnash	Executive Assistant, Capitalize Albany Corporation
John J. Reilly, Esq.	Agency Counsel
A. Joseph Scott, III, Esq.	Agency Bond Counsel

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

Resolution No. 0415-

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 40-48 S PEARL STREET 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, 40-48 S Pearl Street LLC, a New York limited liability company (the "Company"), has 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 two (2) parcels of land containing in the aggregate approximately 0.17 acres located at 40 and 48 S. Pearl Street (Tax Map #s 76.42-4-28 and 76.42-4-25) in the City of Albany, Albany County, New York (collectively, the "Land"), together with two (2) connecting buildings containing in the aggregate approximately 24,000 square feet of space located thereon (collectively, the "Facility"), (2) the renovation of 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 be owned by the Company and to constitute approximately 16 apartments, a restaurant, mixed use retail facilities and 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 Peto	VOTING	_____
C. Anthony Owens	VOTING	_____
Hon. Darius Shahinfar	VOTING	_____
Dominick Calsolaro	VOTING	_____
Lee Eck	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 April 23, 2015 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 23rd day of April, 2015.

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(Assistant) Secretary

(SEAL)

**CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY**

**APPLICATION**

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IMPORTANT NOTICE: The answers to the questions contained in this application are necessary to determine your firm's eligibility for financing and other assistance from the City of Albany Industrial Development Agency. These answers will also be used in the preparation of papers in this transaction. Accordingly, all questions should be answered accurately and completely by an officer or other employee of your firm who is thoroughly familiar with the business and affairs of your firm and who is also thoroughly familiar with the proposed project. This application is subject to acceptance by the Agency.  
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TO: CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY  
c/o Department of Economic Development  
21 Lodge Street  
Albany, New York 12207

This application by applicant respectfully states:

APPLICANT: *Broadway Albany Realty LLC* \_\_\_\_\_  
\_\_\_\_\_

APPLICANT'S ADDRESS: *1465 Monroe Ave* \_\_\_\_\_  
\_\_\_\_\_

CITY: *Rochester* STATE: *NY* ZIP CODE: *14618*

PHONE NO.: *585-271-4800* FAX NO.: *585-271-4802* E-MAIL: *lnorry@norry.com and rrosen@norry.com*

NAME OF PERSON(S) AUTHORIZED TO SPEAK FOR APPLICANT WITH RESPECT TO THIS APPLICATION: *Lewis Norry, Rachel Rosen or Gary Guenther*

IF APPLICANT IS REPRESENTED BY AN ATTORNEY, COMPLETE THE FOLLOWING:

NAME OF ATTORNEY: *Mitchell Nusbaum or James Pronti* \_\_\_\_\_  
\_\_\_\_\_

ATTORNEY'S ADDRESS: *Woods Oviatt Gilman LLP, 2 State Street* \_\_\_\_\_  
\_\_\_\_\_

CITY: *Rochester* STATE: *NY* ZIP CODE: *14618*

PHONE NO.: *585 987 2800* FAX NO.: \_\_\_\_\_ E-MAIL: *mnusbaum@woodsoviatt.com jpronti@woodsoviatt.com*

-----  
NOTE: PLEASE READ THE INSTRUCTIONS ON PAGE 2 HEREOF BEFORE FILLING  
OUT THIS FORM.  
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## INSTRUCTIONS

1. The Agency will not approve any application unless, in the judgment of the Agency, said application and the summary contains sufficient information upon which to base a decision whether to approve or tentatively approve an action.
2. Fill in all blanks, using “none” or “not applicable” or “N/A” where the question is not appropriate to the project which is the subject of this application (the “Project”).
3. If an estimate is given as the answer to a question, put “(est)” after the figure or answer which is estimated.
4. If more space is needed to answer any specific question, attach a separate sheet.
5. When completed, return eight (8) copies of this application to the Agency at the address indicated on the first page of this application.
6. The Agency will not give final approval to this application until the Agency receives a completed environmental assessment form concerning the Project which is the subject of this application.
7. Please note that Article 6 of the Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the applicant feels that there are elements of the Project which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the applicant’s competitive position, the applicant may identify such elements in writing and request that such elements be kept confidential in accordance with Article 6 of the Public Officers Law.
8. The applicant will be required to pay to the Agency all actual costs incurred in connection with this application and the Project contemplated herein (to the extent such expenses are not paid out of the proceeds of the Agency’s bonds issued to finance the Project). The applicant will also be expected to pay all costs incurred by general counsel and bond counsel/special counsel to the Agency. The costs incurred by the Agency, including the Agency’s general counsel and bond counsel, may be considered as a part of the Project and included as a part of the resultant bond issue.
9. The Agency has established an application fee of One Thousand Five Hundred Dollars (\$1,500) to cover the anticipated costs of the Agency in processing this application. A check or money order made payable to the Agency must accompany each application. **THIS APPLICATION WILL NOT BE ACCEPTED BY THE AGENCY UNLESS ACCOMPANIED BY THE APPLICATION FEE.**
10. The Agency has also established an administrative fee equal to (A) one percent (1%) of the cost of the Project in the case of an Agency Straight Lease

Transaction, and (B) one percent (1%) of the aggregate principal amount of the bonds to be issued by the Agency in the case of an Agency Bond Transaction. The Agency has also established an administrative fee for the issuance of refunding bonds for Agency Bond Transactions. The formula for the calculation of the administrative fee for the issuance of refunding bonds is outlined in the Agency's Policy Manual. THESE FEES ARE PAYABLE ON THE CLOSING DATE.

FOR AGENCY USE ONLY

1. Project Number	
2. Date application Received by Agency	, 20
3. Date application referred to attorney for review	, 20
4. Date copy of application mailed to members	, 20
5. Date notice of Agency meeting on application posted	, 20
6. Date notice of Agency meeting on application mailed	, 20
7. Date of Agency meeting on application	, 20
8. Date Agency conditionally approved application	, 20
9. Date scheduled for public hearing	, 20
10. Date Environmental Assessment Form ("EAF") received	, 20
11. Date Agency completed environmental review	, 20
12. Date of final approval of application	, 20



## SUMMARY OF PROJECT

Applicant: *Broadway Albany Realty LLC*

Contact Person: *Lewis Norry*

Phone Number: *O: 585-271-4800 or C: 585-233-3040*

Occupant: *Broadway Albany Realty LLC*

Project Location: *833 Broadway, Albany NY*

Approximate Size of Project Site: *140,000 Square Feet*

Description of Project: *Rehab of existing office space for new call center for MAXIMUS, INC. (Tenant). MAXIMUS is a NYSE listed company in the health insurance services industry. MAXIMUS is an approved contractor with NYS for its Health Care Exchange. Applicant has signed a 5 Year Lease with Tenant for occupancy of 92,000 SF. This occupancy is an expansion for Tenant who already occupies space at Corporate Woods and will continue to maintain both locations. Please note that Applicant is only applying for a sales tax exemption with respect to rehabilitation costs. This application does not cover any equipment which may be purchased by Tenant.*

Type of Project: ☐ Manufacturing ☐ Warehouse/Distribution  
☐ **X** Commercial ☐ Not-For-Profit  
☐ Other-Specify

Employment Impact: Existing Jobs 30FTE's

New Jobs 400 FTE's

Project Cost: \$ 4,430,000

Type of Financing: ☐ Tax-Exempt ☐ Taxable ☐ **X** Straight Lease

Amount of Bonds Requested: \$ NA

Estimated Value of Tax-Exemptions:

N.Y.S. Sales and Compensating Use Tax:	\$ <u>112,000</u>
Mortgage Recording Taxes:	\$ <u>NA</u>
Real Property Tax Exemptions:	\$ <u>NA</u>
Other (please specify):	\$ <u>NA</u>



I. INFORMATION CONCERNING THE PROPOSED OCCUPANT OF THE PROJECT  
(HEREINAFTER, THE “COMPANY”).

A. Identity of Company:

1. Company Name: *Broadway Albany Realty LLC*  
Present Address: *1465 Monroe Ave, Rochester NY*  
Zip Code: *14618*  
Employer's ID No.: *47-2435754*
2. If the Company differs from the Applicant, give details of relationship:  
*NA*
3. Indicate type of business organization of Company:
- a.        Corporation (If so, incorporated in what country?  
What State? Date Incorporated? Type of Corporation? \_\_\_\_\_  
Authorized to do business in New York? Yes \_ No \_\_\_\_.
- b.        Partnership (if so, indicate type of partnership \_\_\_\_\_,  
Number of general partners \_\_\_\_\_, Number of limited partners \_\_\_\_).
- c.   X   Limited liability Company,  
Date created?   11/20/14  .
- d.        Sole proprietorship
- Is the Company a subsidiary or direct or indirect affiliate of any other organization(s)? *NO* If so, indicate name of related organization(s) and relationship: *NA*

B. Management of Company:

1. List all owners, officers, members, directors and partners (complete all columns for each person):

NAME (First, Middle, Last) HOME ADDRESS	OFFICE HELD	OTHER PRINCIPAL BUSINESS
Lewis Norry See attached for list of owners of Broadway Albany Realty LLC	Managing Member	CEO, Norry Management Corp.

2. Is the Company or management of the Company now a plaintiff or a defendant in any civil or criminal litigation? Yes \_\_\_\_; No X.

3. Has any person listed above ever been convicted of a criminal offense (other than a minor traffic violation)? Yes \_\_\_\_; No X.

4. Has any person listed above or any concern with whom such person has been connected ever been in receivership or been adjudicated a bankrupt? Yes X; No \_\_\_\_.  
(If yes to any of the foregoing, furnish details in a separate attachment). *Lewis Norry was connected with Western Select Properties LLC (a single asset owner of an older industrial complex in Indiana) which was placed in receivership by its CMBS Lender. None of the individuals listed above has been adjudicated a bankrupt, personally or by connection.*

5. If the answer to any of questions 2 through 4 is yes, please, furnish details in a separate attachment.

C. Principal Owners of Company:

1. Principal owners of Company: Is Company publicly held? Yes \_\_\_\_ No X.  
If yes, list exchanges where stock traded:

2. If no, list all stockholders having a 5% or more interest in the Company:

NAME	ADDRESS	PERCENTAGE OF HOLDING
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Lewis A. Norry Elliot Norry Paul Mastrolonardo	330 Antlers Dr, Rochester NY 1224 Tockington Ct, Rydal, PA 948 Carter St, Rochester NY	25% 13% 8.335% (passive investor)
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D. Company's Principal Bank(s) of account: *First Niagara Bank*

## II. DATA REGARDING PROPOSED PROJECT

A. Summary: (Please provide a brief narrative description of the Project.)

*833 Broadway is the former NYS headquarters, training and processing center for Citizens Bank. Broadway Albany Realty LLC purchased the property from Citizen Bank on 12/22/14. Broadway Albany Realty LLC is redeveloping the property for multi-tenant occupancy. This project includes rehabilitating 92,000 SF of interior space and the addition of parking outdoors for MAXIMUS, Inc. MAXIMUS, Inc is expanding their presence in Albany (currently at Corporate Woods) with an additional 92,000 SF at 833 Broadway, Albany NY. Please note that MAXIMUS anticipates a significant increase in the number of employees in Albany*

B. Location of Proposed Project:

1. Street Address *833 Broadway*
2. City of *Albany*
3. Town of
4. Village of
5. County of *Albany*

C. Project Site:

1. Approximate size (in acres or square feet) of Project site: *140,000 SF*  
Is a map, survey, or sketch of the project site attached? Yes X; No \_\_\_\_.
2. Are there existing buildings on project site? Yes X; No \_\_\_\_.  
  - a. If yes, indicate number and approximate size (in square feet) of each existing building: *1 building of approx. 140,000 SF*
  - b. Are existing buildings in operation? Yes X; No \_\_\_\_.  
If yes, describe present use of present buildings:  
*Office use*

- c. Are existing buildings abandoned? Yes \_\_\_\_; No   X  . About to be abandoned? Yes \_\_\_\_; No   X  . If yes, describe:
- d. Attach photograph of present buildings. *Attached*
3. Utilities serving project site:  
 Water-Municipal: *Albany Water Board*  
       Other (describe)  
 Sewer-Municipal: *Albany Water Board*  
       Other (describe)  
 Electric-Utility: *National Grid/Constellation*  
       Other (describe)  
 Heat-Utility: *National Grid*  
       Other (describe)
4. Present legal owner of project site:
- a. If the Company owns project site, indicate date of purchase: *December 22, 2014*; Purchase price: \$ *2,760,000*.
- b. If Company does not own the Project site, does Company have option signed with owner to purchase the Project site? Yes \_\_\_\_; No   . If yes, indicate date option signed with owner: \_\_\_\_\_, 20\_\_\_\_; and the date the option expires: \_\_\_\_\_, 20\_\_\_\_.
- c. If the Company does not own the project site, is there a relationship legally or by common control between the Company and the present owners of the project site? Yes   NA  ; No \_\_\_\_\_. If yes, describe:
5. a. Zoning District in which the project site is located: *C-3 Central Business District*
- b. Are there any variances or special permits affecting the site? Yes \_\_\_\_; No   X  . If yes, list below and attach copies of all such variances or special permits:  
*Applicant has submitted Building Permit #71142*  
*Zoning Permit – applying for variances for parking and landscaping*

D. Buildings:

1. Does part of the Project consist of a new building or buildings? Yes \_\_\_\_; No   X  . If yes, indicate number and size of new buildings:
2. Does part of the Project consist of additions and/or renovations to the existing buildings? Yes   X  ; No \_\_\_\_\_. If yes, indicate the buildings to be expanded or renovated, the size of any expansions and the nature of expansion and/or renovation:  
*No expansion.*  
*Renovation of 92,000 SF of office space for new office tenant and additional of parking and landscaping at site.*

3. Describe the principal uses to be made by the Company of the building or buildings to be acquired, constructed, or expanded: *The Company is Leasing 92,000 SF of the Building to MAXIMUS, INC who provides health care insurance related services under contract with the State of NY. This space will be used as a commercial office/call center hub for their staff.*

E. Description of the Equipment:

1. Does a part of the Project consist of the acquisition or installation of machinery, equipment or other personal property (the "Equipment")? Yes X; No \_\_\_\_\_. If yes, describe the Equipment:

*HVAC (Heating, Ventilation and Air Conditioning) units will be replaced as needed, and added to the Building's mechanical Equipment. Any equipment being installed as part of the building is either a capital replacement or improvement.*

2. With respect to the Equipment to be acquired, will any of the Equipment be Equipment which has previously been used? Yes \_\_\_\_; No X\_. If yes, please provide detail:

3. Describe the principal uses to be made by the Company of the Equipment to be acquired or installed: *HVAC Equipment will be used to provide heating, cooling and make up air to the Tenant.*

F. Project Use:

1. What are the principal products to be produced at the Project? *Rentable Office Space*

2. What are the principal activities to be conducted at the Project? *Real estate property management, office and call center, bank back office operations.*

3. Does the Project include facilities or property that are primarily used in making retail sales of goods or services to customers who personally visit such facilities? Yes \_\_\_\_; No X\_. If yes, please provide detail:

4. If the answer to question 3 is yes, what percentage of the cost of the Project will be expended on such facilities or property primarily used in making retail sales of goods or services to customers who personally visit the Project? \_\_\_\_\_% *NA*

5. If the answer to question 3 is yes, and the answer to question 4 is more than 33.33%, indicate whether any of the following apply to the Project: *NA*

a. Will the Project be operated by a not-for-profit corporation? Yes \_\_\_\_\_; No \_\_\_\_\_. If yes, please explain:

b. Is the Project likely to attract a significant number of visitors from outside the economic development region in which the Project will be located? Yes \_\_\_\_\_; No \_\_\_\_\_. If yes, please explain:

c. Would the Project occupant, but for the contemplated financial assistance from the Agency, locate the related jobs outside the State of New York? Yes \_\_\_\_\_; No \_\_\_\_\_. If yes, please explain:

d. Is the predominant purpose of the Project to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the city, town or village within which the Project will be located, because of a lack of reasonably accessible retail trade facilities offering such goods or services? Yes \_\_\_\_\_; No \_\_\_\_\_. If yes, please provide detail:

e. Will the Project be located in one of the following: (i) an area designed as an economic development zone pursuant to Article 18-B of the General Municipal Law; or (ii) a census tract or block numbering area (or census tract or block numbering area contiguous thereto) which, according to the most recent census data, has (x) a poverty rate of at least 20% for the year in which the data relates, or at least 20% of households receiving public assistance, and (y) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates? Yes \_\_\_\_\_; No \_\_\_\_\_. If yes, please explain: \_\_\_\_\_

6. If the answers to any of subdivisions c. through e. of question 5 is yes, will the Project preserve permanent, private sector jobs or increase the overall number of



permanent, private sector jobs in the State of New York? Yes\_\_\_\_; No\_\_\_\_. If yes, please explain: *NA*

7. Will the completion of the Project result in the removal of a plant or facility of the Company or another proposed occupant of the Project (a "Project Occupant") from one area of the State of New York to another area of the State of New York? Yes\_\_\_\_; No\_\_X\_. If yes, please explain:

8. Will the completion of the Project result in the abandonment of one or more plants or facilities of the Company located in the State of New York? Yes\_\_\_\_; No\_X\_\_\_\_. If yes, please provide detail:

9. If the answer to either question 7 or question 8 is yes, indicate whether any of the following apply to the Project: *NA*

a. Is the Project reasonably necessary to preserve the competitive position of the Company on such Project Occupant in its industry? Yes\_\_\_\_; No\_\_\_\_. If yes, please provide detail:

b. Is the Project reasonably necessary to discourage the Company or such Project Occupant from removing such other plant or facility to a location outside the State of New York? Yes\_\_\_\_; No\_\_\_\_. If yes, please provide detail:

G. Other Involved Agencies:

1. Please indicate all other local agencies, boards, authorities, districts, commissions or governing bodies (including any city, county and other political subdivision of the State of New York and all state departments, agencies, boards, public benefit corporations, public authorities or commissions) involved in approving or funding or directly undertaking action with respect to the Project. For example, do you need a municipal building permit to undertake the Project? Do you need a zoning approval to undertake the Project? If so, you would list the appropriate municipal building department or planning or zoning commission which would give said approvals.

*City of Albany:*

*Dept of Planning - Site Plan Approval*

*Code & Regulatory Compliance - Building Permits*

*Board of Zoning Appeals - Zoning Variance*

*City of Albany Corporation Counsel – May require approval of Common Council*

*Municipal Water Company*

2. Describe the nature of the involvement of the federal, state, or local agencies described above:

*Broadway Albany is working with the above listed agencies to obtain building permits for rehabilitation of 92,000 SF for a new office tenant, zoning variances for rehabilitate parking and provide additional parking. A revised storm water management system and landscaping are being proposed with respect to the parking areas.*

H. Construction Status:

1. Has construction work on this Project begun? Yes \_\_\_\_; No X\_. If yes, please discuss in detail the approximate extent of construction and the extent of completion. Indicate in your answer whether such specific steps have been completed as site clearance and preparation; completion of foundations; installation of footings; etc.:

2. Please indicate amount of funds expended on this Project by the Company in the past three (3) years and the purposes of such expenditures: *None as the Applicant acquired property in December 2014.*

I. Method of Construction After Agency Approval:

1. If the Agency approves the Project which is the subject of this application, there are two methods that may be used to construct the Project. The applicant can construct the Project privately and sell the Project to the Agency upon completion. Alternatively, the applicant can request to be appointed as "agent" of the Agency, in which case certain laws applicable to public construction may apply to the Project. Does the applicant wish to be designated as "agent" of the Agency for purposes of constructing the Project? Yes X\_; No \_\_\_\_.

2. If the answer to question 1 is yes, does the applicant desire such "agent" status prior to the closing date of the financing? Yes X\_; No \_\_\_\_

III. INFORMATION CONCERNING LEASES OR SUBLEASES OF THE PROJECT. (PLEASE COMPLETE THE FOLLOWING SECTION IF THE COMPANY INTENDS TO LEASE OR SUBLEASE ANY PORTION OF THE PROJECT).

- A. Does the Company intend to lease or sublease more than 10% (by area or fair market value) of the Project? Yes X\_; No \_\_\_\_\_. If yes, please complete the following for each existing or proposed tenant or subtenant:

1. Sublessee name: *MAXIMUS, INC*  
Present Address: *Corporate: 11419 Sunset Hill Road*  
City: Reston State: *VA* Zip: *20190*  
Employer's ID No.:  
Sublessee is: X Corporation: Partnership: Sole Proprietorship  
Relationship to Company:  
Percentage of Project to be leased or subleased: *68% - 92,000SF USF*  
Use of Project intended by Sublessee: *commercial office space*  
Date of lease or sublease to Sublessee: *7/1/15*  
Term of lease or sublease to Sublessee: *5 Year Lease Term with renewal options*  
Will any portion of the space leased by this sublessee be primarily used in making retail sales of goods or services to customers who personally visit the Project? Yes; No X. If yes, please provide on a separate attachment (a) details and (b) the answers to questions II(F)(4) through (6) with respect to such sublessee.
2. Sublessee name: *Citizens Bank*  
Present Address: *833 Broadway*  
City: Albany State: NY Zip:  
Employer's ID No.:  
Sublessee is:  
X Corporation: Partnership: Sole Proprietorship  
Relationship to Company: *Existing Tenant at time of Purchase*  
Percentage of Project to be leased or subleased: *20% - 28,000SF USF*  
Use of Project intended by Sublessee: *Commerical Office Space*  
Date of lease or sublease to Sublessee: *12/22/2014*  
Term of lease or sublease to Sublessee: *8 Year Lease Term*  
Will any portion of the space leased by this sublessee be primarily used in making retail sales of goods or services to customers who personally visit the Project? Yes; No X. If yes, please provide on a separate attachment (a) details and (b) the answers to questions II(F)(4) through (6) with respect to such sublessee.
3. Sublessee name: *NA*  
Present Address:  
City: State: Zip:  
Employer's ID No.:  
Sublessee is: Corporation: Partnership: Sole Proprietorship  
Relationship to Company:  
Percentage of Project to be leased or subleased:  
Use of Project intended by Sublessee:  
Date of lease or sublease to Sublessee:  
Term of lease or sublease to Sublessee:  
Will any portion of the space leased by this sublessee be primarily used in making retail sales of goods or services to customers who personally visit the Project? Yes; No. If yes, please provide on a separate attachment (a) details and (b) the answers to questions II(F)(4) through (6) with respect to such sublessee.

B. What percentage of the space intended to be leased or subleased is now subject to a binding written lease or sublease? *Approx. 128,000 RSF*

IV. Employment Impact

A. Indicate below the number of people presently employed at the project site and the number that will be employed at the project site at end of the first and second years after the Project has been completed (Do not include construction workers). Also indicate below the number of workers employed at the project site representing newly created positions as opposed to positions relocated from other project sites of the applicant. Such information regarding relocated positions should also indicate whether such positions are relocated from other project sites financed by obligations previously issued by the Agency.

*Current employment is approximately 30 FTE's with Citizen's Bank. After Project completion, Maximus anticipates approx. 200 FTE's at end of Year 1 and approx. 200 additional FTE's at end of Year 2.*

TYPE OF EMPLOYMENT					
	PROFESSIONAL MANAGERIAL	SKILLED	SEMI- SKILLED	UNSKILLED	TOTALS
Present Full Time	30 FTE				30
Present Part Time					
Present Seasonal					
First Year Full Time	60 FTE	170 FTE			230
First Year Part Time					
First Year Seasonal					
Second Year Full Time	60 FTE	370 FTE			430
Second Year Part Time					
Second Year Seasonal					

B. Please prepare a separate attachment describing in detail the types of employment at the project site. Such attachment should describe the activities or work performed for each type of employment.

V. Project Cost

A. Anticipated Project Costs. State the costs reasonably necessary for the acquisition of the project site and the construction of the proposed project including the acquisition and installation of any machinery and equipment necessary or convenient in connection therewith, and including any utilities, access roads, or appurtenant facilities, using the following categories:

<u>Description of Cost</u>	<u>Amount</u>
Land	\$ _____
Buildings	\$ 2,500,000
Machinery and equipment costs	\$ included above _____
Utilities, roads and appurtenant costs	\$ 1,000,000 parking lots, green space, site costs
Architects and engineering fees	\$ 100,000
Costs of Bond issue (legal, financial and printing)	\$ 0

H. Additional Fee for Low Income Housing/Tax Credit (9% only) Projects: An annual administrative fee equal to \$10,000 shall be payable annually by the applicant on each January 1 for a term equal to ten (10) years. This annual administrative fee is in addition to the standard administrative fee for Agency Straight Lease Transactions and Agency Bond Transactions and is applicable to Projects which provide for low income housing/tax credit (9% only) projects.

I. Project Benefits Agreement. The applicant agrees to enter into a project benefits agreement with the Agency where the applicant agrees (1) that the amount of Financial Assistance to be received shall be contingent upon, and shall bear a direct relationship to the success or lack of success of such project in delivering certain described public benefits (the "Public Benefits") and (2) the Agency will be entitled to recapture some or all of the Financial Assistance granted to the applicant if the project is unsuccessful in whole or in part in delivering the promised Public Benefits.

J. Assignment of Agency Abatements: In connection with any Agency Straight Lease Transaction or Agency Bond Transaction, the Agency may grant to the applicant certain exemptions from mortgage recording taxes, sales and use taxes and real property taxes. The applicant understands that the grant of such exemptions by the Agency is intended to benefit the applicant. Subsequently, if the applicant determines to convey the Project and, in connection with such conveyance to assign such exemptions to the purchaser, the applicant understand that any such assignment is subject to review and consent by the Agency, together with the satisfaction of any conditions that may be imposed by the Agency.

K. Post Closing Cost Verification. The applicant agrees (1) the scope of the Project will not vary significantly from the description in the public hearing resolution for the project and (2) to deliver to the Agency within sixty (60) days following the completion date of a project an affidavit providing the total costs of the project. In the event that the amount of the total project costs described in the affidavit at the completion date exceeds the amount described in an affidavit provided by the applicant on the closing date of the project, the applicant agrees to adjust the amounts payable by the applicant to the Agency by such larger amount and to pay to the Agency such additional amounts. In the event that the amount described is less, there shall not be any adjustment to the Agency fees.

L. Representation of Financial Information. Neither this Application nor any other agreement, document, certificate, project financials, or written statement furnished to the Agency or by or on behalf of the applicant in connection with the project contemplated by this Application contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading. There is no fact within the special knowledge of any of the officers of the applicant which has not been disclosed herein or in writing by them to the Agency and which materially adversely affects or in the future in their opinion may, insofar as they can now reasonably foresee, materially adversely affect the business, properties, assets or condition, financial or otherwise, of the applicant.

Construction loan fees and interest (if applicable)	\$ <u>40,000</u>
Other (specify)	\$ _____
<u>    </u> legal _____	\$ <u>50,000</u>
<u>    </u> 3 <sup>rd</sup> party commissions	\$ <u>740,000</u>
_____	\$ _____
 TOTAL PROJECT COST	 \$ <u>4,430,000</u>

B. Have any of the above expenditures already been made by applicant?  
Yes   X  ; No     . (If yes, indicate particular.) *Architecture & Space planning approx. \$50,000, commissions \$200,000*

V. BENEFITS EXPECTED FROM THE AGENCY

A. Financing

1. Is the applicant requesting that the Agency issue bonds to assist in financing the Project? Yes     ; No   X  . If yes, indicate:
  - a. Amount of loan requested:      Dollars;
  - b. Maturity requested:      Years.
2. Is the interest on such bonds intended to be exempt from federal income taxation? Yes   NA  ; No     .
3. If the answer to question 2 is yes, will any portion of the Project be used for any of the following purposes:
  - a. retail food and beverage services: Yes     ; No
  - b. automobile sales or service: Yes     ; No
  - c. recreation or entertainment: Yes     ; No
  - d. golf course: Yes     ; No
  - e. country club: Yes     ; No
  - f. massage parlor: Yes     ; No
  - g. tennis club: Yes     ; No
  - h. skating facility (including roller
  - i. skating, skateboard and ice skating): Yes     ; No
  - j. racquet sports facility (including
  - handball and racquetball court): Yes     ; No
  - k. hot tub facility: Yes     ; No
  - l. suntan facility: Yes     ; No
  - m. racetrack: Yes     ; No
4. If the answer to any of the above questions contained in question 3 is yes, please furnish details on a separate attachment. *NA*

5. Is the Project located in the City's federally designated Enterprise Zone?  
Yes\_\_\_\_; No\_\_X\_\_.
6. Is the applicant requesting the Agency to issue federally tax-exempt Enterprise Zone bonds? Yes\_\_\_\_; No\_\_X\_\_.

B. Tax Benefits

1. Is the applicant requesting any real property tax exemption that would not be available to a project that did not involve the Agency? Yes \_\_\_\_; No \_X\_\_.
2. Is the applicant expecting that the financing of the Project will be secured by one or more mortgages? Yes \_X\_\_; No \_\_\_\_\_. If yes, what is the approximate amount of financing to be secured by mortgages? \$6,500,000\_.
3. Is the applicant expecting to be appointed agent of the Agency for purposes of avoiding payment of N.Y.S. Sales Tax or Compensating Use Tax? Yes \_X\_\_; No \_\_\_\_\_. If yes, what is the approximate amount of purchases which the applicant expects to be exempt from the N.Y.S. Sales and Compensating Use Taxes? \$1,400,000.
4. What is the estimated value of each type of tax-exemption being sought in connection with the Project? Please detail the type of tax-exemption and value of the exemption.

a.	N.Y.S. Sales and Compensating Use Taxes:	\$__112,000
b.	Mortgage Recording Taxes:	\$____0_____
c.	Real Property Tax Exemptions:	\$____0_____
d.	Other (please specify):	\$____0_____
	_____	\$_____
	_____	\$_____

5. Are any of the tax-exemptions being sought in connection with the Project inconsistent with the Agency's tax-exemption policy contained in its Rules and Regulations? Yes \_\_\_\_; No X. If yes, please explain.

6. Is the Project located in the City's state designated Empire Zone? Yes\_\_\_\_; No\_X.

C. Project Cost/Benefit Information. Complete the attached Cost/Benefit Analysis so that the Agency can perform a cost/benefit analysis of undertaking the Project. Such information should consist of a list and detailed description of the benefits of the Agency undertaking the Project (e.g., number of jobs created, types of jobs created, economic development in the area, etc.). Such information should also consist of a list and detailed description of the costs of the Agency undertaking the Project (e.g., tax revenues lost, buildings abandoned, etc.).



VI. REPRESENTATIONS BY THE APPLICANT. The applicant understands and agrees with the Agency as follows:

A. Job Listings. Except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the “DOC”) and with the administrative entity (collectively with the DOC, the “JTPA Entities”) of the service delivery area created by the federal job training partnership act (Public Law 97-300) (“JTPA”), as replaced by the Workforce Investment Act of 1998 (Public Law 105-220), in which the Project is located.

B. First Consideration for Employment: In accordance with Section 858-b(2) of the New York General Municipal Law, the applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the applicant will first consider persons eligible to participate in JTPA Programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the Project.

C. City Human Rights Law. The Applicant agrees to endeavor to comply with the provisions of Article XI, Division 2 of the City Code, entitled “The Omnibus Human Rights Law.” The Applicant understands that it is not subject to the provisions of The Omnibus Human Rights Law.

D. Annual Sales Tax Filings. In accordance with Section 874(8) of the New York General Municipal Law, the applicant understands and agrees that, if the Project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the applicant and all consultants or subcontractors retained by the applicant.

E. Annual Employment Reports: The applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the Project site.

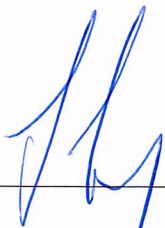
F. Absence of Conflicts of Interest: The applicant has received from the Agency a list of the members, officers, and employees of the Agency. No member, officer, or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as hereinafter described:

G. Local Labor Information: The applicant is aware of and understands the provisions of Part 24 of the Policy Manual of the Agency. Pursuant to Part 24 of the Policy Manual of the Agency, the applicant agrees to provide information, in form and substance satisfactory to the Agency, relating to construction activities for projects; specifically: (i) the Company’s contact person responsible and accountable for providing information about the bidding for and awarding of construction contracts relative to this Application and the Project, (ii) the nature of construction jobs created by the Project, including the number, type, and duration of construction positions; and (iii) submit to the Agency a “Construction Completion Report” listing the names and business locations of prime contractors, subcontractors, and vendors who were engaged in the construction phase of the Project.

M. Additional Information. Additional information regarding the requirements noted in this Application and other requirements of the Agency is included the Agency's Policy Manual which can be accessed at [www.albanyida.com](http://www.albanyida.com).

(Applicant)

BY: \_\_\_\_\_



-----  
NOTE: APPLICANT MUST ALSO COMPLETE THE APPROPRIATE VERIFICATION  
APPEARING ON PAGES 18 THROUGH 21 HEREOF BEFORE A NOTARY PUBLIC AND MUST  
SIGN AND ACKNOWLEDGE THE HOLD HARMLESS AGREEMENT APPEARING ON PAGE 22  
-----

VERIFICATION

(If Applicant is a Corporation)

STATE OF \_\_\_\_\_ )  
 ) SS.:  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_deposes and says that he is the  
(Name of chief executive of applicant)

\_\_\_\_\_of \_\_\_\_\_,  
(Title) (Company Name)

the corporation named in the attached application; that he has read the foregoing application and knows the contents thereof; and that the same is true and complete and accurate to the best of his knowledge. Deponent further says that the reason this verification is made by the deponent and not by said company is because the said company is a corporation. The grounds of deponent's belief relative to all matters in the said application which are not stated upon his own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this application as well as information acquired by deponent in the course of his duties as an officer of and from the books and papers of said corporation.

\_\_\_\_\_  
(officer of applicant)

Sworn to before me this  
\_\_\_\_\_day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Notary Public)

VERIFICATION

(If applicant is sole proprietor)

STATE OF \_\_\_\_\_ )  
 ) SS.:  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_, deposes and says  
(Name of Individual)

that he has read the foregoing application and knows the contents thereof; and that the same is true and complete and accurate to the best of his knowledge. The grounds of deponent's belief relative to all matters in the said application which are not stated upon his own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this application.

\_\_\_\_\_  
Sworn to before me this  
\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Notary Public)

VERIFICATION

(If applicant is partnership)

STATE OF \_\_\_\_\_ )  
 ) SS.:  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_, deposes and says  
(Name of Individual)

that he is one of the members of the firm of \_\_\_\_\_,  
(Limited Liability Company)

the limited liability company named in the attached application; that he has read the foregoing application and knows the contents thereof; and that the same is true and complete and accurate to the best of his knowledge. The grounds of deponent's belief relative to all matters in the said application which are not stated upon his own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this application as well as information acquired by deponent in the course of his duties as a member of and from the books and papers of said limited liability company.

\_\_\_\_\_  
Sworn to before me this  
\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Notary Public)

VERIFICATION

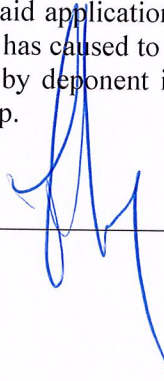
(If applicant is limited liability company)

STATE OF New York  
 ) SS.:  
COUNTY OF monroe

LEWIS NORRY, deposes and says  
(Name of Individual)

that he is one of the members of the firm of BROADWAY ALBANY REALTY LLC,  
(Partnership Name)

the partnership named in the attached application; that he has read the foregoing application and knows the contents thereof; and that the same is true and complete and accurate to the best of his knowledge. The grounds of deponent's belief relative to all matters in the said application which are not stated upon his own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this application as well as information acquired by deponent in the course of his duties as a member of and from the books and papers of said partnership.



Sworn to before me this  
20<sup>th</sup> day of April, 2015

Deborah L. Cervini  
(Notary Public)

DEBORAH L. CERVINI  
Notary Public, State of New York  
Qualified in Monroe County  
No. 01CE6023322  
My Commission Expires 4/19/19

-----  
NOTE: THIS APPLICATION WILL NOT BE ACCEPTED BY THE AGENCY UNLESS THE HOLD  
HARMLESS AGREEMENT APPEARING ON PAGE 22 IS SIGNED BY THE APPLICANT.  
-----



## HOLD HARMLESS AGREEMENT

Applicant hereby releases City of Albany Industrial Development Agency and the members, officers, servants, agents and employees thereof (hereinafter collectively referred to as the "Agency") from, agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (i) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the application or the project described therein or the issue of bonds requested therein are favorably acted upon by the Agency, and (ii) the Agency's financing of the Project described therein; including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Agency or the Applicant are unable to find buyers willing to purchase the total bond issue requested, then, and in that event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Agency, its agents or assigns, all actual costs incurred by the Agency in the processing of the Application, including attorneys' fees, if any.

(Applicant)

BY: \_\_\_\_\_

Sworn to before me this  
20<sup>th</sup> day of April, 2015



(Notary Public)

DEBORAH L. CERVINI  
Notary Public, State of New York  
Qualified in Monroe County  
No. 01CE6023322  
My Commission Expires 4/19/19

TO: Project Applicants  
FROM: City of Albany Industrial Development Agency  
RE: Cost/Benefit Analysis

---

In order for the City of Albany Industrial Development Agency (the "Agency") to prepare a Cost/Benefit Analysis for a proposed project (the "Project"), the Applicant must answer the questions contained in this Project Questionnaire (the "Questionnaire") and complete the attached Schedules. This Questionnaire and the attached Schedule will provide information regarding various aspects of the Project, and the costs and benefits associated therewith.

Since we need this Questionnaire to be completed before we can finalize the Cost/Benefit Analysis, please complete this Questionnaire and forward it to us at your earliest convenience.

### **PROJECT QUESTIONNAIRE**

1. Name of Project Beneficiary ("Company"):	<i>Broadway Albany Realty LLC</i>
2. Brief Identification of the Project:	<i>Rehab of 92,000 SF of Commercial Office Space, expansion and rehab of associated parking</i>
3. Estimated Amount of Project Benefits Sought:	
A. Amount of Bonds Sought:	\$ 0
B. Value of Sales Tax Exemption Sought	\$ 112,000
C. Value of Real Property Tax Exemption Sought	\$ 0
D. Value of Mortgage Recording Tax Exemption Sought	\$ 0

### **PROJECTED PROJECT INVESTMENT**

A. Land-Related Costs	
1. Land acquisition	\$
2. Site preparation	\$
3. Landscaping	\$
4. Utilities and infrastructure development	\$ 1,000,000
5. Access roads and parking development	\$
6. Other land-related costs (describe)	\$
B. Building-Related Costs	
1. Acquisition of existing structures	\$
2. Renovation of existing structures	\$ 2,500,000
3. New construction costs	\$
4. Electrical systems	\$
5. Heating, ventilation and air conditioning	\$
6. Plumbing	\$
7. Other building-related costs (describe)	\$



C.	Machinery and Equipment Costs	
1.	Production and process equipment	\$ _____
2.	Packaging equipment	\$ _____
3.	Warehousing equipment	\$ _____
4.	Installation costs for various equipment	\$ _____
5.	Other equipment-related costs (describe)	\$ _____
D.	Furniture and Fixture Costs	
1.	Office furniture	\$ _____
2.	Office equipment	\$ _____
3.	Computers	\$ _____
4.	Other furniture-related costs (describe)	\$ _____
E.	Working Capital Costs	
1.	Operation costs	\$ _____
2.	Production costs	\$ _____
3.	Raw materials	\$ _____
4.	Debt service	\$ 40,000
5.	Relocation costs	\$ _____
6.	Skills training	\$ _____
7.	Other working capital-related costs (describe)	\$ _____
F.	Professional Service Costs	
1.	Architecture and engineering	\$ 100,000
2.	Accounting/legal	\$ 50,000
3.	Other service-related costs (describe) <i>3<sup>rd</sup> party commissions</i>	\$ 740,000
G.	Other Costs	
1.	_____	\$ _____
2.	_____	\$ _____
H.	Summary of Expenditures	
1.	Total Land-Related Costs	\$ 1,000,000
2.	Total Building-Related Costs	\$ 2,500,000
3.	Total Machinery and Equipment Costs	\$ NA
4.	Total Furniture and Fixture Costs	\$ NA
5.	Total Working Capital Costs	\$ 40,000
6.	Total Professional Service Costs	\$ 890,000
7.	Total Other Costs	\$ NA

### **PROJECTED PROFIT**

- I. Please provide projected profit as defined by earnings after income tax but before depreciation and amortization: *All construction costs are capitalized.*

YEAR	Without IDA benefits	With IDA benefits
1	\$ NA	\$ NA
2	\$	\$
3	\$	\$
4	\$	\$
5	\$	\$

### **PROJECTED CONSTRUCTION EMPLOYMENT IMPACT**

- I. Please provide estimates of total construction jobs and the total annual wages and benefits of construction jobs at the Project:

Year	Number of Construction Jobs	Total Annual Wages and Benefits	Estimated Additional NYS Income Tax
Current Year		\$2,100,000	\$
Year 1		\$	\$
Year 2		\$	\$
Year 3		\$	\$
Year 4		\$	\$
Year 5		\$	\$

### **PROJECTED PERMANENT EMPLOYMENT IMPACT**

- I. Please provide estimates of total number of existing permanent jobs to be preserved or retained as a result of the Project:

Year	Professional	Skilled	Semi-Skilled	Unskilled
Current Year	30	0	0	0
Year 1	30	0	0	0
Year 2	30	0	0	0
Year 3	30	0	0	0
Year 4	30	0	0	0
Year 5	30	0	0	0

II. Please provide estimates of total new permanent jobs to be created at the Project:

Year	Professional	Skilled	Semi-Skilled	Unskilled
Current Year				
Year 1	30	170	0	0
Year 2	0	200	0	0
Year 3	0	0	0	0
Year 4	0	0	0	0
Year 5	0	0	0	0

III. Please provide estimates for the following:

A. Creation of New Job Skills relating to permanent jobs. Please complete Schedule A.

IV. Provide the projected percentage of employment that would be filled by City of Albany residents:  
 \_\_\_ *Will be determined by Tenant. Tenant will be informed of preference for City of Albany hiring.*

A. Provide a brief description of how the project expects to meet this percentage:

### **PROJECTED OPERATING IMPACT**

I. Please provide estimates for the impact of Project operating purchases and sales: estimate sales tax on opex

Additional Purchases (1 <sup>st</sup> year following project completion)	\$___560,000
Additional Sales Tax Paid on Additional Purchases	\$ 44,800
Estimated Additional Sales (1 <sup>st</sup> full year following project completion)	NA
Estimated Additional Sales Tax to be collected on additional sales (1 <sup>st</sup> full year following project completion)	NA

II. Please provide estimates for the impact of Project on existing real property taxes and new payments in lieu of taxes ("Pilot Payments"): NA. *Applicant is not seeking PILOT.*

Year	Existing Real Property Taxes (Without IDA involvement)	New Pilot Payments (With IDA)	Total (Difference)
Current Year			
Year 1			
Year 2			
Year 3			
Year 4			
Year 5			
Year 6			
Year 7			
Year 8			
Year 9			
Year 10			

III. Please provide a brief description for the impact of other economic benefits expected to be produced as a result of the Project:

*This Project will bring in a minimum of 400 new jobs to Downtown Albany. There will be increased retail activity in the Downtown Area, increased income and sales tax to the municipality and NYS, stabilized real property taxes for this property and a stabilized commercial office property. Parking will be enhanced in this area with the expansion of parking and landscaping improvements will enhance the immediate neighborhood.*

## CERTIFICATION

I certify that I have prepared the responses provided in this Questionnaire and that, to the best of my knowledge; such responses are true, correct, and complete.

I understand that the foregoing information and attached documentation will be relied upon, and constitute inducement for, the Agency in providing financial assistance to the Project. I certify that I am familiar with the Project and am authorized by the Company to provide the foregoing information, and such information is true and complete to the best of my knowledge. I further agree that I will advise the Agency of any changes in such information, and will answer any further questions regarding the Project prior to the closing.

Date Signed: APR 20, 2015

**Name of Person Completing Project Questionnaire on behalf of the Company.**

Name: Lewis Norry

Title: Managing Member

Phone Number: 585-281-4800

Address: 1465 Monroe Ave, Rochester NY 14618

Signature: 

## SCHEDULE A

## CREATION OF NEW JOB SKILLS

Please list the projected new job skills for the new permanent jobs to be created at the Project as a result of the undertaking of the Project by the Company.

[illegible]

Should you need additional space, please attach a separate sheet.

# Broadway Albany Realty LLC Investor List

% of  
ownershi  
p

Name	
Joshua & Barbara Bahoff	1.67%
BGC1 LLC	1.67%
Leslie Frankel	1.67%
Patrick J. Guisto	1.67%
The Entrust Group Inc. FBO William Richard Hampton Roth IRA #57-01039	3.33%
Daniel M. Kurzmann Trust	3.33%
Charles J. Lesh, Jr.	1.67%
Paul Mastrolonardo	8.33%
Sherri Middleberg	1.67%
Mark Redding	3.33%
Equity Trust Company Custodian FBO James J. Rinaldi IRA Acct. #2149376	1.67%
Rachel Rosen	0.83%
Marc Rothman	1.67%
Sadashiv S. Shenoy	3.33%
Michael Silber	1.67%
Equity Trust Company Custodian FBO Michael Silber IRA	3.33%
James M. Sperry	3.33%
Norman Steinberg	0.83%
Robert & Nina Sternberg	3.33%
Anthony & Patrica Tortorella	1.67%

50.00%

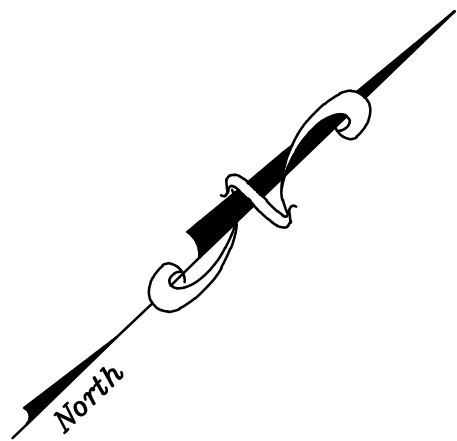
# Broadway Albany Realty LLC Investor List

## Non-Preferred Units

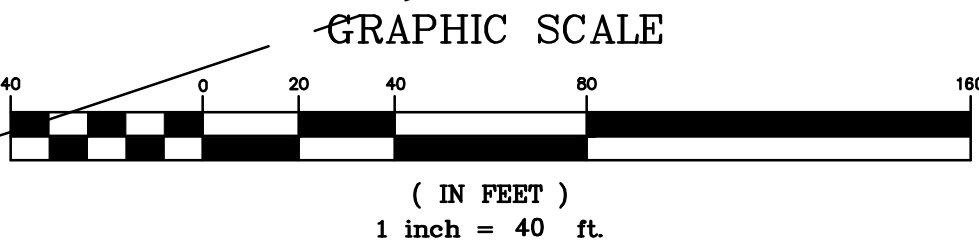
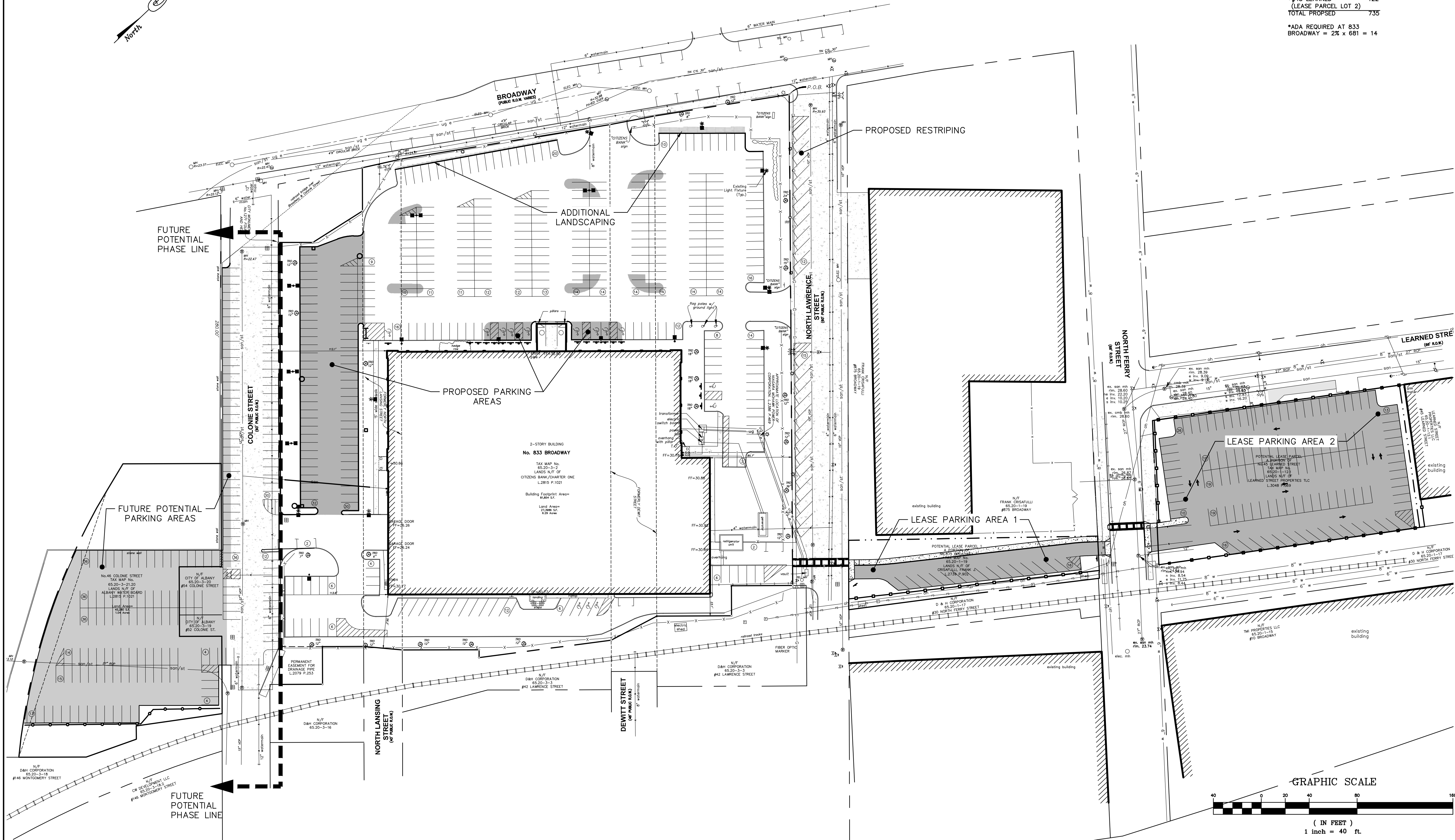
Name	Non-Preferred Units %
------	--------------------------

Lewis A. Norry	25.00%
Elliot Norry	13.00%
Rachel Rosen	3.00%
James Pronti	7.00%
Michael Silber	2.00%
	50%





EXISTING PARKING	PROPOSED PARKING
• 833 BROADWAY 272	• 833 BROADWAY 366
• BROADWAY STREET 27	• BROADWAY 27
• COLONIE STREET 29	• COLONIE STREET 78
• LAWRENCE STREET 13	• WATER BOARD PARCEL 98
TOTAL EXISTING 341	• LAWRENCE STREET 27
	• #875 BROADWAY 17
	(LEASE PARCEL LOT 1) 122
	• #45 LEARNED (LEASE PARCEL LOT 2) 122
	TOTAL PROPOSED 735
	*ADA REQUIRED AT 833 BROADWAY = 2% x 681 = 14



DRAWING ALTERATION THE FOLLOWING IS AN EXCERPT FROM THE NEW YORK EDUCATION LAW ARTICLE 145, SECTION 2709 AND APPLIES TO THIS DRAWING. IT IS A VIOLATION OF THIS LAW FOR ANY PERSON UNLESS HE IS ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER OR LAND SURVEYOR TO ALTER AN ITEM IN ANY WAY. IF AN ITEM BEARING THE SEAL OF AN ENGINEER OR LAND SURVEYOR IS ALTERED, THE ALTERING ENGINEER OR LAND SURVEYOR SHALL AFFIX TO THE ITEM HIS SEAL AND THE NOTATION "ALTERED BY" FOLLOWED BY HIS SIGNATURE AND THE DATE OF SUCH ALTERATION AND A SPECIFIC DESCRIPTION OF THE ALTERATION.

Project Title:  
**#833 BROADWAY  
SITE PLAN APPLICATION  
CITY OF ALBANY, ALBANY COUNTY**

Project No.  
**4012.14002**

Drawn By:  
**JPJ**

Checked By:  
**TOF**

Scale:  
**1" = 40'**

Date:  
**APRIL 2015**

Project Title:  
**PROJECT OVERVIEW**

No. Revisions and Descriptions  
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**MRB group**  
Engineering, Architecture, Surveying, P.C.  
The Culver Road Armory, 145 Culver Road, Suite 100,  
Rochester, New York 14620 585-381-9250  
www.mrbgroup.com

**HEESBERG & HEESBERG**  
Consulting Engineers  
and Land Surveyors  
18 Locust Street  
Albany, New York 12203





 Citizens Bank

  
PARKING

Welcome  
Customer  
Parking

**PUBLIC HEARING RESOLUTION  
BROADWAY ALBANY REALTY 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 April 23, 2015 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
C. Anthony Owens	Secretary
Hon. Darius Shahinfar	Treasurer
Dominick Calsolaro	Member
Lee Eck	Member
Robert T. Schofield	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Sarah Reginelli	Chief Executive Officer
Bradley Chevalier	Vice President, Director of Development, Capitalize Albany Corporation
Mark Opalka	Chief Financial Officer
Sabina Mora	Senior Economic Developer, Capitalize Albany Corporation
Andrew Corcione	Economic Developer, Capitalize Albany Corporation
Chantel Burnash	Executive Assistant, Capitalize Albany Corporation
John J. Reilly, Esq.	Agency Counsel
A. Joseph Scott, III, Esq.	Agency Bond Counsel

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

Resolution No. 0415-

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 ALBANY REALTY 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 Albany Realty LLC, a New York limited liability company (the "Company"), has 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 all or a portion of six (6) parcels of land containing in the aggregate approximately 10 acres located 833 Broadway, 875 Broadway, 45 Learned Street, 46 Colonie Street, 52 Colonie Street and 54 Colonie Street (Tax Map #s 65.20-3-2, 65.20-1-19, 65.20-1-12.1, 65.10-3-21.2, 65.20-3-19 and 65.20-3-20, respectively) in the City of Albany, Albany County, New York (collectively, the "Land"), together with a building containing approximately 140,000 square feet of space located thereon (the "Facility"), (2) the renovation of the Facility, (3) the expansion of the parking area and the making of other improvements therein and thereon (collectively, the "Improvements") and (4) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the "Equipment") (the Land, the Facility, the Improvements and the Equipment being collectively referred to as the "Project Facility"), all of the foregoing constituting a commercial office facility and other related uses, a portion of which to be leased by the Company to Maximus, Inc. (the "Tenant"); (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 Peto	VOTING	_____
C. Anthony Owens	VOTING	_____
Hon. Darius Shahinfar	VOTING	_____
Dominick Calsolaro	VOTING	_____
Lee Eck	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 April 23, 2015 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 23rd day of April, 2015.

---

(Assistant) Secretary

(SEAL)



# Columbia Development Companies

---

302 Washington Avenue Extension  
Albany, New York 12203

Office: (518) 862-9133  
Fax: (518) 862-9443

Debra J. Lambek, Esq.  
Counsel  
(518) 862-9133 Ext. 4225  
[dlambek@columbiadev.com](mailto:dlambek@columbiadev.com)

April 14, 2015

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

Re: 67 Howard Street LLC ("Company") with  
City of Albany Industrial Development Agency ("Agency")  
Application regarding 67 Howard Street, City of Albany,  
Albany County, New York ("Project")

Dear Ms. Metzger:

This letter shall revise the Application for the above Project dated February 11, 2014 to add the construction of an overhead bridge from parking garage at 67 Howard Street to the proposed convention center on Howard Street. Please note the Project costs have increased by \$1,500,000 from the original \$6,503,500 to \$8,003,000. The mortgage recording tax increased a total of \$25,000. The original estimate was \$68,750 and the revised figure is \$93,750. Sales tax has increased a total of \$48,000 from the original estimate of \$420,000 to \$468,000. There is no change to proposed PILOT Agreement.

The construction of an overhead bridge from the Project to the proposed convention center will result in connectivity between the two projects. This connection will enable individuals to travel from the convention center to the parking garage and to the Renaissance Hotel Project without going outdoors. It is anticipated this connection among various projects will increase the likelihood of their success in the City of Albany.

If you have any questions or comments, please do not hesitate to call.

Very truly yours,

COLUMBIA DEVELOPMENT COMPANIES



Debra J. Lambek, Esq.

DJL:mmml

cc: Nadene Zeigler, Esq. (Via Email to [nzeigler@hodgsonruss.com](mailto:nzeigler@hodgsonruss.com))



CITY OF ALBANY  
DEPARTMENT OF ASSESSMENT  
AND TAXATION  
ROOM 302 CITY HALL  
ALBANY, NEW YORK ZIP 12207  
TELEPHONE (518) 434-5155

KATHY SHEEHAN  
MAYOR

KEITH MCDONALD  
COMMISSIONER

April 21st, 2015

Brad Chevalier  
City of Albany Industrial Development Agency  
21 Lodge Street  
Albany, New York 12207

Dear Mr. Chevalier,

Re: Industrial Development Agency Project  
67 Howard Street

Please be advised that the current assessed value for the property located at 67 Howard Street is \$ 250,000. After reviewing the estimate of income and expenses, my proposed final assessment would be \$ 8,500 per parking space times the 300 spaces or \$2,550,000.

If you have any questions please feel free to contact me at 434-5155.

Sincerely

Keith McDonald  
Commissioner



**SEQR RESOLUTION FOR AMENDED PROJECT  
67 HOWARD STREET 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 April 23, 2015 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
C. Anthony Owens	Secretary
Hon. Darius Shahinfar	Treasurer
Dominick Calsolaro	Member
Lee Eck	Member
Robert T. Schofield	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Sarah Reginelli	Chief Executive Officer
Bradley Chevalier	Vice President, Director of Development, Capitalize Albany Corporation
Mark Opalka	Chief Financial Officer
Sabina Mora	Senior Economic Developer, Capitalize Albany Corporation
Andrew Corcione	Economic Developer, Capitalize Albany Corporation
Chantel Burnash	Executive Assistant, Capitalize Albany Corporation
John J. Reilly, Esq.	Agency Counsel
A. Joseph Scott, III, Esq.	Agency Bond Counsel

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

Resolution No. 0415-

**RESOLUTION AUTHORIZING THE ISSUANCE OF A FINDINGS STATEMENT  
RELATIVE TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT FOR THE  
AMENDED 67 HOWARD STREET LLC 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 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, in September, 2013, 67 Howard Street LLC, a New York 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 "Initial Project") for the benefit of the Company, said Initial Project consisting of the following: (A) (1) the acquisition of an interest in a parcel of land containing approximately .05 acres and located at 67 Howard Street (Tax Map # 76.33-1-13) in the City of Albany, Albany County, New York (the "Land"), (2) the construction on the Land of a parking facility to contain approximately 300 parking spaces (the "Facility") and (3) the acquisition and installation therein and thereon of certain fixtures, machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to be owned by the Company, to constitute a parking facility and to be operated by the Company as a parking facility and 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, by resolution adopted by the members of the Agency on September 19, 2013 (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 Initial 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 Initial Project and the financial assistance being contemplated by the Agency with respect to the Initial Project, to be mailed on October 25, 2013 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 October 29, 2013 on a public bulletin board located at the 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 on November 4, 2013, (C) caused notice of the Public Hearing to be published on October 28, 2013 in the Albany Times Union, a newspaper of general circulation available to the residents of the City of Albany, Albany County, New York, (D) conducted the Public Hearing on November 13, 2013 at 11:30 o'clock a.m., local time at offices of the City of Albany Industrial Development 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 23, 2014 (the “SEQR Resolution”), the Agency (A) concurred in the determination that the City of Albany Planning Board (the “Planning Board”) is the “lead agency” with respect to SEQRA and (B) acknowledged receipt of a negative declaration from the Planning Board issued on October 17, 2013 (the “Negative Declaration”), in which the Planning Board determined that the Initial Project will not have a “significant environmental impact on the environment” and accordingly, that an environmental impact statement is not required to be prepared with respect to the Initial Project (as such quoted terms are defined in SEQRA); and

WHEREAS, on April 14, 2015, the Agency received an amendment to the Application with respect to the Initial Project (the “Amendment”), which Amendment amends the Initial Project to include the construction of an approximately 12 foot by 80 foot enclosed overhead bridge that will connect the Facility to the proposed convention center (the “Bridge”), so that the Initial Project is now described as follows (the Initial Project, as amended will be referred to as the “Project”): (A) (1) the acquisition of an interest in a parcel of land containing approximately .05 acres and located at 67 Howard Street (Tax Map # 76.33-1-13) in the City of Albany, Albany County, New York (the “Land”), (2) the construction on the Land of a parking facility to contain approximately 300 parking spaces (the “Facility”), (3) the further construction of an approximately 12 foot by 80 foot enclosed overhead bridge that will connect the Facility to the proposed convention center (the “Bridge”), and (4) the acquisition and installation therein and thereon of certain fixtures, machinery and equipment (the “Equipment”) (the Land, the Facility, the Bridge and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned by the Company, to constitute a parking facility and to be operated by the Company as a parking facility and 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 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 must satisfy the requirements contained in SEQRA and the Regulations prior to making a final determination whether to undertake the Amendment; and

WHEREAS, to aid the Agency in determining whether the Amendment may have a significant effect upon the environment, the Company has submitted to the Agency (A) a Final Environmental Impact Statement (the “FEIS”) accepted and deemed final by the Albany Convention Center Authority (the “Authority”), as lead agency, pursuant to SEQRA, on May 9, 2014 and (B) a SEQR Findings Statement dated May 19, 2014 (the “Findings Statement”) prepared by the Authority, copies of which were provided to the Agency and presented to and reviewed by the Agency at this meeting and copies of which are on file at the office of the Agency; and

WHEREAS, the Authority is the “lead agency” with respect to the Amendment and has adopted the Findings Statement pursuant to Section 617.9 of the Regulations; and

WHEREAS, the Agency has reviewed and considered the Findings Statement; and

WHEREAS, at this meeting, (A) the staff of the Agency has discussed with the members of the Agency the results of the review of the FEIS conducted by the staff of the Agency; (B) a copy of the Findings Statement was presented to the members of the Agency; (C) the staff of the Agency has discussed the Findings Statement with the members of the Agency; and (D) the members of the Agency have reviewed and considered the Findings Statement; and

WHEREAS, the Agency now desires to make the findings required by Section 617.11 of the Regulations;

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

Section 1. Based upon (A) the discussions held by the members of the Agency at this meeting respecting the FEIS and the Findings Statement (collectively, the “SEQR Documents”) and (B) the review of the Findings Statement conducted by the members of the Agency at this meeting, the Agency hereby (1) makes the findings and provides the rationale for such findings as set forth in the Findings Statement, which Findings Statement is hereby incorporated into and made a part of this resolution, and (2) adopts the Findings Statement as the Agency’s written findings statement relative to the Amendment, as required by Section 617.11(c) of the Regulations.

Section 2. Based upon the foregoing, the Agency hereby finds and determines that:

A. The Agency has reviewed the FEIS and has considered the relevant environmental impacts, facts and conclusions disclosed in the FEIS;

B. The Agency has weighed and balanced the relevant environmental impacts identified in the FEIS with social, economic and other considerations;

C. The Agency has reviewed the Act, the FEIS, and the Findings Statement, and based on said materials, the Agency finds no compelling reason not to proceed with the Amendment;

D. The requirements of SEQRA have been met with respect to the Amendment; and

E. As set forth in the Findings Statement, consistent with social, economic and other essential considerations, from among the reasonable alternatives available, (1) the Amendment minimizes adverse environmental impacts to the maximum extent practicable and (2) adverse environmental effects revealed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable in the FEIS.

Section 3. In consequence of the foregoing, the Agency hereby makes a determination to proceed with the Amendment.

Section 4. The Chief Executive Officer of the Agency is hereby directed to (A) send a copy of this Resolution to the Mayor of the City of Albany, New York; (B) send a copy of this Resolution to the Authority, as lead agency; (C) send a copy of this Resolution to each entity identified by the Agency as an “involved agency” with respect to the Amendment (as such quoted term is used in SEQRA);

(D) send a copy of this Resolution to the Company; (E) send a copy of this Resolution to each other person who has requested a copy of same; and (F) place a copy of this Resolution in the files of the Agency that are readily accessible to the public and made available on request.

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 Peto	VOTING	_____
C. Anthony Owens	VOTING	_____
Hon. Darius Shahinfar	VOTING	_____
Dominick Calsolaro	VOTING	_____
Lee Eck	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 April 23, 2015 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 23<sup>rd</sup> day of April, 2015.

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(Assistant) Secretary

(SEAL)

## EXHIBIT A

### FINDINGS STATEMENT

In accordance with Article 8 (State Environmental Quality Review) of the Environmental Conservation Law (the “Act”), and the statewide regulations under the Act (6 NYCRR Part 617) (the “Regulations”), in September, 2013, City of Albany Industrial Development Agency (the “Agency”) has received an application (the “Application”) from 67 Howard LLC (the “Company”), which Application requested that the Agency consider undertaking a project (the “Initial Project”) for the benefit of the Company, said Initial Project consisting of the following: (A) (1) the acquisition of an interest in a parcel of land containing approximately .05 acres and located at 67 Howard Street (Tax Map # 76.33-1-13) in the City of Albany, Albany County, New York (the “Land”), (2) the construction on the Land of a parking facility to contain approximately 300 parking spaces (the “Facility”) and (3) the acquisition and installation therein and thereon of certain fixtures, machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned by the Company, to constitute a parking facility and to be operated by the Company as a parking facility and 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.

On April 14, 2015, the Agency received an amendment to the Application with respect to the Initial Project (the “Amendment”), which Amendment amends the Initial Project to include the construction of an approximately 12 foot by 80 foot enclosed overhead bridge that will connect the Facility to the proposed convention center (the “Bridge”), so that the Initial Project is now described as follows (the Initial Project, as amended will be referred to as the “Project”): (A) (1) the acquisition of an interest in a parcel of land containing approximately .05 acres and located at 67 Howard Street (Tax Map # 76.33-1-13) in the City of Albany, Albany County, New York (the “Land”), (2) the construction on the Land of a parking facility to contain approximately 300 parking spaces (the “Facility”), (3) the further construction of an approximately 12 foot by 80 foot enclosed overhead bridge that will connect the Facility to the proposed convention center (the “Bridge”), and (4) the acquisition and installation therein and thereon of certain fixtures, machinery and equipment (the “Equipment”) (the Land, the Facility, the Bridge and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned by the Company, to constitute a parking facility and to be operated by the Company as a parking facility and 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 Agency was informed that the Albany Convention Center Authority (the “Lead Agency”) was designated the “lead agency” with respect to the Amendment.

On May 9, 2014, a final environmental impact statement was submitted and approved by the Lead Agency (the “FEIS”). On May 19, 2014, a findings statement dated May 19, 2014 was prepared and adopted by the Lead Agency (the “Findings Statement”), which Findings Statement is attached hereto, and a notice of completion of the FEIS was filed by the Lead Agency pursuant to 6 NYCRR 617.11(a).

On April 23, 2015, by resolution adopted by the members of the Agency, the Agency adopted the Findings Statement as the Agency's written findings statement relative to the Project, as required by 6 NYCRR 617.11(c). This written findings statement has been prepared in accordance with Article 8 of the Environmental Conservation Law.

Additional information may be obtained from the following: Sarah Reginelli, Chief Executive Officer, City of Albany Industrial Development Agency, 21 Lodge Street, Albany, New York 12207; Telephone: 518-434-2532 ext. 19.



**STATE ENVIRONMENTAL QUALITY REVIEW ACT  
FINDINGS STATEMENT**

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Pursuant to the State Environmental Quality Review Act ("SEQRA"), Article 8 of the Environmental Conservation Law and 6 NYCRR Part 617, the Albany Convention Center Authority (the "Authority") as the Lead Agency makes the following findings.

**Name of Action:** Albany Capital Center

**Description of Action:** The Authority is a public benefit corporation established to design, develop, plan, finance, create, Site, construct, renovate, administer, operate, manage, and maintain a convention center and related facilities in the City of Albany, New York (the "Project"). In accordance with Public Authorities Law § 2675-f, the Authority has formulated a plan for the creation and development of the Albany Capital Center (ACC).

**Location:** The Authority proposes to construct the Albany Capital Center on a Site bounded by Eagle, Howard, and Wendell Streets and the Empire State Plaza Walkway.

**Agency Jurisdiction:** The Authority was created specifically to develop and implement a plan for a convention center.

**Date Final Environmental Impact Statement Filed:** May 9, 2014

**Certification to Approve/Fund/Undertake:**

Having considered the Draft and Final Environmental Impact Statements and having considered and relied upon the written facts and conclusions set forth below, and carefully weighed and balanced relevant environmental factors with social, economic and other essential considerations to meet the requirements of 6 NYCRR Part 617.11, this Statement of Findings certifies that:

1. The requirements of 6 NYCRR Part 617 have been met; and
2. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is the one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

Albany Convention Center Authority  
**Name of Agency**

\_\_\_\_\_  
**Signature of Responsible Official**

Gavin Donohue  
**Name of Responsible Official**

Chairman  
**Title of Responsible Official**

May 19, 2014  
**Date**

386 Broadway  
Albany, New York 12207  
**Address of Agency**

Duncan Stewart, Executive Director  
**Contact**

cc: Other Involved Agencies  
Applicants

## SEQRA FINDINGS

### PART I INTRODUCTION

1. The Authority was created in 2004 to formulate a plan for the creation and development of a convention center in the City of Albany. Under its enabling legislation, the primary components of the plan were to include the Projects' revenue/financing, construction costs, geographic location, environmental impacts, historic preservation measures, community involvement, reports from public hearings held and a timeline for development. These components are required to be submitted to the Governor, Comptroller, temporary President of the Senate, Speaker of the Assembly, Albany County Executive and Mayor of Albany.
2. The Authority discharged its obligation by preparing a Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS). The preparation and review of the DEIS, FEIS and these SEQRA findings also enabled the Authority to meet its obligation under SEQRA.
3. The purpose and intent of planning for development of a convention center was that (i) there is a demand for a convention center facility in Albany given Albany's status as the State Capitol, and (ii) a convention center has the potential to deliver significant social and economic benefits to the City of Albany by positioning the City as a major competitor for national conventions and as a community of choice for new investment, growth and development. Accordingly, the Authority defined its mission statement "to develop and operate a dynamic convention center facility that maximizes its economic potential through effective leadership, proactive marketing and programming, organizational integrity and transparency, community participation, fiscal responsibility, and the leveraging of economic development opportunities for others through community outreach and inclusion."
4. Marketed in tandem with the exhibit and convention space offered by both the Times Union Center and the Empire State Plaza, the Albany Capital Center will significantly expand the capacity of Albany to host convention, consumer shows, conferences and meetings.
5. It is anticipated by 2020, four years after its opening, the Albany Capital Center will attract approximately 200 events annually with total attendance in excess of 80,000 people. Correspondingly, the Albany Capital Center will induce almost 40,000 hotel room nights in the Capital Region.
6. Benefits provided by the Albany Capital Center are anticipated to occur through direct, indirect and induced means attributable to the almost 80,000 annual convention attendees. Initial direct impacts include increased spending, increased employment, and enhanced market position. These direct impacts provide support for additional employment and secondary market expansion (retail, residential, and hospitality), contributing to multiplier rounds of additional induced spending and associated market expansion and tax revenue impacts.

7. By 2020, the Albany Capital Center will directly employ and induce over 157 additional jobs in the local economy and stimulate \$20 million dollars in annual spending in Albany and another \$6 million in New York State. The increased spending translates into nearly \$3.0 million in additional state, county and local taxes and revenue.
8. The creation of the Albany Capital Center adjacent to the Pearl Street entertainment district and linked to attractions found in Downtown Albany and throughout the region (through wayfinding, transit and marketing) is anticipated to enhance the City's overall market image, attractiveness, and market position. This increased market appeal could lead to additional convention event business and an enhanced capture of regional visitation.
9. The DEIS and FEIS thoroughly analyzed potential environmental impacts associated with the project, including visual, land use, zoning, community services, traffic, utilities, air quality and construction. These impacts, once studied, were determined to be minor and easily mitigated.

## **PART II      PROPOSED DEVELOPMENT**

10. The Albany Capital Center includes a five level, structure that will include two levels of conference space totaling 82,000 sq.ft. The main entrance to the Albany Capital Center along Eagle Street with a loading area on Wendell Street.
11. The existing Empire State Plaza Walkway will be renovated to create an enclosed, secure conditioned and finished space and improve the linkage between the Empire State Plaza, the Times Union Center and the Albany Capital Center.
12. A new elevated pedestrian walkway over Howard Street will provide a direct connection to Renaissance by Marriot (DeWitt Clinton Hotel).
13. Three levels of subsurface parking will accommodate up to 250 vehicles. Additional parking will be provided by the Times Union Parking Garage.
14. The Albany Capital Center, combined with the venues of the Times Union Center and the Empire State Plaza, creates the largest convention space in Upstate New York at 159,000 sq. ft.

### **PART III     TRANSPORTATION & PARKING**

15. An analysis of the transportation infrastructure and parking facilities for the Albany Capital Center has been completed to assess the implications of project-induced changes. The analysis includes nearby intersections that may be impacted by the estimated Site traffic.
16. The metric for determining capacity is referred to a Level of Service (LOS). Level of Service (LOS) is defined as the average delay per vehicle (in seconds) at intersections, with a range from LOS A to LOS F. An overall intersection LOS D or better is generally considered to be acceptable during morning and evening peak traffic periods.
17. The analysis of the Albany Capital Center generated traffic shows that the traffic operations at the nearby intersections will generally remain at acceptable LOS's.
18. The Howard Street/Lodge Street intersection will change from a LOS A to LOS B during the AM peak hour. During the PM peak hour, the westbound left/thru/right movement changes from LOS A to LOS B.
19. The Howard Street/Eagle Street will change from an LOS D to LOS F during PM peak hour for westbound left/right movement changes from LOS D to LOS F.
20. The changes in LOS resulting from the Albany Capital Center at the Howard Street and Lodge Street intersection are not significant, and will continue to provide levels of service that exceed the thresholds that are typically considered for urban street design. There is no mitigation required or recommended for this location.
21. The change in LOS at the intersection of Howard & Eagle Streets from LOS D to LOS F pertains to the added traffic volume. Analysis to determine if the intersection should be upgraded with a traffic signal indicates it is warranted. However, the warrant is only met during the evening peak. Therefore, since the analysis is related to the projected traffic volumes, based on the size and type of events, conditions will be monitored after stabilization of the Albany Capital Center in 2020, to determine if actual traffic conditions meet the warrant for a traffic signal.
22. During peak hour operations manual police-officer control may be used for traffic control during select, major events.
23. The traffic generated by the Albany Capital Center is projected to increase traffic volumes on Beaver Street, which collects traffic from Wendell Street and Lodge Street to South Pearl Street. The intersection of South Pearl Street and Beaver Street is controlled with flashing signals. This intersection will also be monitored after program stabilization to identify if conditions will meet the warrant to convert this flashing signal to three-color operation.
24. Special events at the Albany Capital Center may require the deployment of additional short-duration transportation and parking management strategies to accommodate the traffic

generated by these events. These strategies involve a combination of traveler information, travel demand management and/or traffic management tools and techniques. Moreover, design and operation of the Albany Capital Center will be coordinated with CDTA to maximize transit connections for staff and event attendees traveling via the Albany International Airport or the Rensselaer Train Station.

25. The Capital Region Traffic Management Task Force is an existing consortium of transportation agencies and other stakeholders that provides the organizational framework for developing logical and consistent event management plans, in conjunction with the event planners, to provide safe and efficient transportation operations during these special events. The Authority will begin coordination with the Task Force as the Albany Capital Center opening approaches.
26. It is estimated the Albany Capital Center will require a minimum of 300-350 designated parking spaces. The three-level parking structure that will be constructed as part of the Albany Capital Center is expected to accommodate between 200 and 250 spaces.
27. The balance of the spaces needed for the Albany Capital Center will be met by a combination of spaces available at the Times Union Parking Garage, which currently has an excess capacity of 200 spaces on a typical weekday, and could increase in the future, and the Empire State Plaza parking structure. Sharing of these existing parking facilities dovetails with the joint marketing of the three facilities and the expectation that larger events will use event space in all three facilities.

#### **PART IV CULTURAL RESOURCES**

28. Albany's pre-contact background, despite the modern-day urban character, shows a continuum of occupation of Native American populations from somewhere between 6,000 to 2,500 BC through the beginning of the 17th century. As such, nearly every large archeological excavation in Downtown Albany has produced Native American artifacts. Recovered artifacts range from carving tools, projectile points, rough stone tools, and wampum beads and tools.
29. While Albany's European settlement started around 1620 with the construction of Fort Orange, settlement in the vicinity of the Site, can be traced to early in the 18th century, when Howard Street, which has undergone name changes over the centuries, was first developed as a public way.
30. The Site was first developed during the early part of 19<sup>th</sup> century. The Albany City Jail (1810-1811), Albany Hospital (1845), and the Albany Humane Society (1889) along with mixture of small-scale mercantile concerns, modest houses, and institutions were found on the Site during the 19<sup>th</sup> century.
31. By the 20<sup>th</sup> century, the Site was home to the gasoline service station (1951) the Wellington Hotel Annex (1922) and the Wellington Garage (1929).

32. Based on the Site's history, a Phase 1A Cultural Resource Investigation has concluded the Site is sensitive for pre-contact archeological deposits and only a slight historic archeological sensitivity for the 17<sup>th</sup> and 18<sup>th</sup> centuries.
33. However, the results of previous archeological investigations completed in the vicinity, suggest the potential for locating 19th century archeological deposits is high within southern portion of Site, but existing subterranean parking garages may serve to limit this potential.
34. A Phase IB (Phase 1B) Archeological Investigation is recommended to determine the presence and extent of archeological remains within the Site. The purpose of the Phase IB field study is to locate areas, such as privies, backyards and open areas, with the greatest archeological potential. Further, subsurface demolition will be observed by an archaeologist to further evaluate the presence of archeological resources.

## **PART V      AESTHETIC AND VISUAL RESOURCES**

35. Considering the visibility of the Albany Capital Center, the design vocabulary will be developed to visually compliment the fabric of the Downtown Albany urban center. This can be accomplished with the appropriate architectural detailing and building materials. The design will be developed with a benchmark that the Albany Capital Center will be a signature type structure and one that makes a strong statement to all visitors.
36. Generally, the Site has little visual interest with abandoned and deteriorating buildings and parking garage with simple lines and no unique architecture details or features. The Albany Capital Center represents an opportunity for significant aesthetic enhancement of Eagle Street. Since the Albany Capital Center is expected to significantly improve the visual quality of the Site, no mitigation is necessary to screen or buffer views of the Site from any identified aesthetic resource.
37. Design, scale, and form shall consider the surrounding historic character. The area's existing design vocabulary shall be echoed in order to provide a sense of continuity with older development. The Albany Capital Center shall not replicate adjacent historic buildings but provide a unique sense of place, while remaining conscious of neighboring areas.
38. Street trees and pedestrian-scale lighting shall be consistent with the surrounding street network to enhance the area.
39. Electrical, telephone, and communications wires and equipment shall be installed and maintained underground.
40. Current zoning permits 100% development on a parcel with zero lot line construction. This theme shall be continued with the Albany Capital Center to blend into the existing urban fabric.

## **PART VI      LAND USE AND ZONING**

41. Although the Albany Capital Center will not be subject to the City's Zoning Laws, the DEIS nevertheless includes a thorough zoning analysis to determine the consistency of the project with the existing built environment and the City of Albany's land use policies and goals.
42. Located in the heart of the central business district, land uses in the vicinity of the Site include the Times Union Center and garage, the Empire State Plaza, the Egg and various government institutional uses such as the Capital Building, Albany City Hall, the State Supreme Court and the State Museum. Interspersed with these uses are various businesses, office and residential buildings.
43. State Street, which is the predominate urban corridor in Downtown Albany, borders the Site to the north. Anchored by the former Dewitt Clinton Hotel, which is being converted to a Renaissance by Marriot, at the top of State Street, the land uses include a mix of office retail, and vacant structures. The same type of development is consistent throughout the downtown business district and continues along Howard, Wendell and Eagle Street.
44. The Site is zoned C-3, Central Business District. The parcels immediately west of Eagle Street are zoned C-O, Commercial Office District; the remaining areas surrounding the Site areas are zoned C-3 as depicted in the City of Albany Official Zoning Map.
45. The Albany Capital Center will reinforce the urban fabric of the Downtown Core by eliminating underdeveloped parcels of land. It takes advantage of excellent location, access and infrastructure, in the heart of Downtown Albany. As proposed, the Albany Capital Center will strengthen and diversify the area's amenities such as the Times Union Center, a prominent entertainment destination and the Empire State Plaza, a government and cultural center.
46. The Albany Capital Center will create an additional regional draw; resulting in a more diversified economic base for Downtown Albany. This will result in direct positive economic impacts to the City of Albany and the Capital Region by way of increased spending for lodging, meals, transportation and at retail establishments by visitors.
47. The Albany Capital Center will be designed to embrace and enhance the character of this area. Architectural design, the use of materials, and color selections will be contextually sensitive with the surrounding urban environment.
48. Upgrades to the Empire State Walkway, resulting in a modern, conditioned space, will provide stronger, safer linkage between the three facilities, further strengthening their position in Downtown Albany and their regional drawing power.
49. The Albany Capital Center represents sustainable revitalization in the Downtown Core that will provide economic opportunity. It aligns with several components of the City's vision outlined in the Comprehensive Plan, Albany 2030.



50. The Authority will coordinate with Capital District Transportation Authority (CDTA) to promote and encourage access to regional transit system including the Rensselaer Train Station and the Albany International Airport.
51. Wayfinding signage along I-787 and within Downtown Albany will be used to direct visitors to the Albany Capital Center. Wayfinding shall be consistent with wayfinding standards established by the Downtown Business Improvement District.
52. Design of lighting, street crossings, and streetscape amenities shall strengthen pedestrian linkages throughout Downtown Albany. Lighting shall be designed to conform to the lighting industry's dark sky standards.
53. Architectural design, the use of materials, and color selections should be contextually sensitive with the surrounding urban environment. Whenever possible, Site design should promote and incorporate existing historic and architecturally significant resources.

## **PART VII COMMUNITY SERVICES**

54. With the Albany Capital Center accommodating approximately 200 events and 87,000 people to the City by 2020, there may be an increased demand for police, fire and EMS services. The largest events at the Capital Center will be consumer shows (e.g. boat show) that could draw several thousand people over 3 day period, which is significantly less than major events typically held at the Times Union Center, which has drawn approximately 15,000 people for a major athletic or concert event.
55. The size and scale of the Albany Capital Center falls well within the continuum of existing facilities and development in the City. This indicates that the City has the police, fire and EMS personnel and equipment to adequately serve the Albany Capital Center.
56. Facility design and building materials will adhere to all standards established for fire prevention and safety.

## **PART VIII UTILITIES AND INFRASTRUCTURE**

57. The Albany Capital Center will connect to the existing municipal water system for domestic supply and fire protection. Based on NYSDEC guidelines, the project could increase the domestic water demands (and correspondingly wastewater generated) by approximately 72,000 gallons per day, with a potential peak water usage, during highly attended events, of 200 gallons per minute.
58. Water conservation measures such as the use of waterless urinals and dual flush water closets may reduce the base water demands and corresponding wastewater generated. The use of rainwater as greywater (used only for toilets or irrigation) within the building may also be a viable option to reduce water consumption. These options will need to be explored during the design phase.

59. Fire flow requirements for the Albany Capital Center will be developed during the design phase. In conjunction with the City of Albany Fire Department, fire flow requirements will be developed and may include a water tank to provide adequate fire flow.
60. The 12" sewer main along Howard Street will be at capacity with the completion of construction for the Renaissance by Marriot (former Dewitt Clinton Hotel), at the corner of State and Eagle Street. There are several options that will be assessed during the design phase to determine the best solution to accommodate sanitary sewer needs of the Albany Capital Center. These will include increasing the size of the sewer on Howard Street, possible connection to the sewer on Beaver Street and/or possible connection to the sewer on Eagle Street. A preferred solution will be developed in conjunction with the City of Albany.
61. The Albany Capital Center will require a stormwater management plan in accordance with the Phase II SPDES requirements as promulgated by the NYSDEC. The plan will include, in accordance with City regulations, stormwater detention such that "the peak flow discharge of stormwater from the improved area (the Site) is limited to the peak flow discharge from this area in its predevelopment state."
62. Possible methods of stormwater management include groundwater recharge, via subsurface storage or rooftop storage. The use of rainwater as greywater for use within the building may also be a viable option.
63. The final design will include an analysis to assess the impacts on stormwater, and to provide final stormwater runoff calculations. In accordance with NYSDEC requirements, the stormwater management system will be designed to treat water quality.

## **PART IX     AIR QUALITY**

64. Sensitive receptors such as hospitals, schools and residential areas are limited in the vicinity of the Site, with current land uses dominated by institutional (government) uses, service industry, office uses and transportation uses. Residential areas are generally located to the area south of Madison Avenue.
65. The Albany Capital Center may potentially result in direct air quality impacts, caused by emissions from stationary sources (i.e., heating systems), and indirect impacts, which result from emissions from mobile sources (i.e. automobiles).
66. While the design of the heating system has not been completed, it is anticipated that the Albany Capital Center will rely on a single plant using up to two/three natural gas fired boilers to provide heat and hot water. These boilers are commonly utilized in office buildings, hotels, and convention centers throughout the United States.

67. Boiler emissions will be required to comply with applicable State and federal regulations. Based on preliminary information the Albany Capital Center does not meet the thresholds for an Air Facility Permit or Air Facility Registration from NYSDEC.
68. The traffic analysis for the project indicates that key street networks and intersections in the vicinity of the Site will continue to operate at acceptable levels-of-service with no significant traffic delays that may adversely affect air quality.

## **PART X CONSTRUCTION IMPACTS**

69. Construction of the project is expected to start in the summer of 2014, assuming all approvals have been secured. Construction is expected to take approximately 24 months, with substantial completion by summer of 2016.
70. The Authority's web page will be used to provide regular updates on construction, contact phone numbers, schedules, and upcoming events.
71. The Albany Capital Center will temporarily generates noise, especially during the first six to eight months of construction when earthwork, foundation construction, and steel work are being completed. Noise levels and potential adverse effects due to construction activities will vary depending on the type of equipment, the location of the equipment, the duration of operations, and the time of operations.
72. Requirements relating to limiting construction noise will be incorporated into all construction contracts. Two such provisions could include the following:
  - a. Construction delivery equipment will typically operate during the hours of 7:00 am to 6:00 pm, Monday through Saturday.
  - b. Construction equipment will not be operated on Sundays, State and Federal Holidays or from 6:00 pm to 7:00 am.
73. If a driven pile system is determined to be the most appropriate foundation system, additional measures to mitigate vibration could include:
  - a. Perform a pre-construction inspection of all properties within a 1,000 feet radius of the Site to identify and document pre-construction conditions of each property within this radius.
  - b. Maintain the Authority's website with regular updates to inform and update property owners within a 1,000 foot radius of the project regarding project status and upcoming activities.
  - c. Conduct post construction inspection of and meetings with all properties within a 1,000 foot radius to identify and document post-construction conditions of each property within this radius.
74. Air quality impacts resulting from construction activities will be localized and short-term in duration. Any impacts to individual air quality receptors will also be short-term. Construction-related air quality mitigation is as follows:

- a. Fugitive dust control plan will be developed as part of the Stormwater Pollution Prevention Plan (SWPPP) as required by NYSDEC. Strategies to control fugitive dust will include wetting excavation areas, unpaved parking and staging areas, and onSite stockpiles of debris, dirt, or dusty material; and washing haul trucks and covering loads before leaving the Site. Generally, the potential for fugitive dust will be significantly reduced after the first months of construction, once the amount of exposed soils are very limited.
  - b. The contractor will use street-sweeping equipment at paved Site-access points.
  - c. All contractors will be required to shut off construction equipment when it is not in direct use to reduce emissions from idling.
75. The potential for erosion during construction will exist as soils are disturbed by excavation and grading, is expected to be limited to the first six-months of construction. Erosion and sedimentation of all exposed soils during construction will be minimized by the implementation of the aforementioned SWPPP.
76. NYSDEC regulations include comprehensive inspection and monitoring protocol to ensure that measures outlined in the SWPPP are being implemented and maintained. The regulations required that all erosion and sediment control measures must be inspected at least once each week and following any storm event of 0.5 inches or greater in a 24 hour period.
77. Up to 125 construction workers will be on Site at any one time. Construction works will use surface parking lots adjacent to Hudson Avenue and Green Street to prevent use of limited on street parking spaces adjacent to the Site.
78. For traffic detours and temporary road closures during construction a Maintenance and Protection of Traffic Plan will be developed that defines measures to minimize construction impacts on traffic. A requirement of this plan will be that, to the extent possible, access to businesses will be maintained and existing roads will be kept open to traffic unless alternate routes are provided.
79. The project will establish goals for diverting materials from landfills by developing a construction waste management plan. Considered materials could include cardboard, metal, brick, acoustical tile, concrete, plastic, clean wood, glass, gypsum wallboard, carpet and insulation.

## **PART XI CUMULATIVE IMPACTS**

80. Construction has commenced on the adjacent former Dewitt Clinton Hotel, which be converted to 204-room Renaissance by Marriot. Construction will commence in the near future on Wellington Row, which will include approximately 40,000 sq.ft. of retail and office space and four apartment units.
81. The combined traffic generated by ACC and these projects concluded that projects will not result in unacceptable levels of services or local traffic delays.

82. Combined, the ACC and the projects will require in excess of 600-700 parking spaces. To address these needs a new 300 car parking garage will be built adjacent to the Renaissance by Marriot and the Albany Capital Center will construct a 200-250 space subsurface parking structure. Additional parking needs can be met through available spaces at the Times Union Garage and/or the Empire State Plaza.
83. The City of Albany has indicated that the two projects will not necessitate an upgrade to the water system and both can be accommodated with the existing water mains. However, the 12' sewer main that runs along Howard Street will be at capacity with the completion of Renaissance by Marriot. Therefore, the Albany Capital Center will need to connect to different sewer lines, possibly the main located along Beaver Street, to avoid impacting the Howard Street main.
84. Both projects will increase stormwater, albeit minimally, since both project Sites already contained a significant amount of impervious surface. However, consistent with City stormwater policy, both projects will be required to detain 100 percent of stormwater runoff, something that neither Site currently does. As such, the two projects combined will have a positive cumulative impact on stormwater runoff, by slowing the amount of runoff entering the City's sewer system during storm events.
85. Cumulative impacts related to temporary road closures and traffic detours will be minimized by Maintenance and Protection of Traffic Plans that both projects will need to have approved by the City of Albany. The City can assist in coordinating this aspect of both projects to minimize the potential impacts.

### **PART XIII ALTERNATIVES**

86. The project Site was selected following a comprehensive site selection review process administered by the Authority. In selecting the Site, the Authority took into consideration a 2001 Strategic Advisory Group Market Study and Economic Impact Analysis, 2002 ALDC Convention Center Feasibility Study, 2002 Convention Center Developers RFP (request-for-proposals), and 2004 Strategic Advisory Group Market Study Update.
87. The Authority also established selection criteria based upon these studies and RFPs. The Site selection criteria included an identified need for a Site with adequate access to accommodate load in/out, connectivity to major highways, and availability of complementary support businesses.
88. Based upon the site selection criteria, in 2007 the Authority previously identified approximately six-acres of land along Hudson Avenue, currently used as surface parking lots as preferred Site.

89. However, after completing SEQR on the Hudson Avenue Site and developing a preliminary design for a convention center, it was concluded that project would exceed available funding.

90. Subsequently, the Authority reviewed the selection criteria and previously considered Sites and concluded that proposed Site on Eagle Street is the preferred Site.

#### **CERTIFICATION OF FINDINGS TO APPROVE**

The Authority has considered the relevant environmental impacts, facts and conclusions disclosed in the DEIS and FEIS, and other pertinent information and has weighed and balanced relevant environmental impacts with social, economic and other considerations.

Having considered the information and the facts and conclusions relied upon to meet the requirements of 6 NYCRR 617.11, the Authority certifies that:

- 1) the requirements of 6 NYCRR Part 617 have been met; and
- 2) consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating those mitigative measures that were identified as practicable.

**AMENDED APPROVING RESOLUTION  
67 HOWARD STREET 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 April 23, 2015 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
C. Anthony Owens	Secretary
Hon. Darius Shahinfar	Treasurer
Dominick Calsolaro	Member
Lee Eck	Member
Robert T. Schofield	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Sarah Reginelli	Chief Executive Officer
Bradley Chevalier	Vice President, Director of Development, Capitalize Albany Corporation
Mark Opalka	Chief Financial Officer
Sabina Mora	Senior Economic Developer, Capitalize Albany Corporation
Andrew Corcione	Economic Developer, Capitalize Albany Corporation
Chantel Burnash	Executive Assistant, Capitalize Albany Corporation
John J. Reilly, Esq.	Agency Counsel
A. Joseph Scott, III, Esq.	Agency Bond Counsel

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

Resolution No. 0415-

RESOLUTION AMENDING A RESOLUTION ENTITLED “RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION WITH A LEASE/LEASEBACK TRANSACTION FOR A PROJECT FOR 67 HOWARD STREET 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 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, on January 23, 2014 the members of the Agency adopted a resolution (the "Approving Resolution") entitled "Resolution Authorizing Execution of Documents in Connection with a Lease/Leaseback Transaction For a Project For 67 Howard Street LLC (the "Company")"; and

WHEREAS, subsequent to the adoption of the Approving Resolution, the structure of the transaction changed;

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

Section 1. Beginning with the third recital clause of the Approving Resolution, the recital clauses are hereby amended to read as follows:

"WHEREAS, in September, 2013, 67 Howard Street LLC, a New York 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 "Initial Project") for the benefit of the Company, said Initial Project consisting of the following: (A) (1) the acquisition of an interest in a parcel of land containing approximately .05 acres and located at 67 Howard Street (Tax Map # 76.33-1-13) in the City of Albany, Albany County, New York (the "Land"), (2) the construction on the Land of a parking facility to contain approximately 300 parking spaces (the "Facility") and (3) the acquisition and installation therein and thereon of certain fixtures, machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to be owned by the Company, to constitute a parking facility and to be operated by the Company as a parking facility and 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, by resolution adopted by the members of the Agency on September 19, 2013 (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 Initial 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 Initial



Project and the financial assistance being contemplated by the Agency with respect to the Initial Project, to be mailed on October 25, 2013 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 October 29, 2013 on a public bulletin board located at the 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 on November 4, 2013, (C) caused notice of the Public Hearing to be published on October 28, 2013 in the Albany Times Union, a newspaper of general circulation available to the residents of the City of Albany, Albany County, New York, (D) conducted the Public Hearing on November 13, 2013 at 11:30 o'clock a.m., local time at offices of the City of Albany Industrial Development 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 23, 2014 (the "SEQR Resolution"), the Agency (A) concurred in the determination that the City of Albany Planning Board (the "Planning Board") is the "lead agency" with respect to SEQRA and (B) acknowledged receipt of a negative declaration from the Planning Board issued on October 17, 2013 (the "Negative Declaration"), in which the Planning Board determined that the Initial Project will not have a "significant environmental impact on the environment" and accordingly, that an environmental impact statement is not required to be prepared with respect to the Initial Project (as such quoted terms are defined in SEQRA); and

WHEREAS, by resolution adopted by the members of the Agency on January 23, 2014 (the "Commercial/Retail Finding Resolution"), the Agency (A) determined that the Initial 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 Initial Project, the Agency is authorized to provide financial assistance in respect of the Initial Project pursuant to Section 862(2)(a) of the Act because the Project Facility is located in a highly distressed area, (C) determined, following a review of the Public Hearing Report, that the Initial 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 Initial Project and the granting of the Financial Assistance; provided however, that no financial assistance would be provided to the Initial 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 Initial Project; and

WHEREAS, by further resolution adopted by the members of the Agency on January 23, 2014 (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 Initial Project; and

WHEREAS, by certificate dated March 24, 2014 (the "Public Approval"), the Mayor, as chief executive officer of the City of Albany, New York, approved the proposed action to be taken by the Agency with respect to the Initial Project for purposes of Section 862(2)(c) of the Act; and

WHEREAS, on April 14, 2015, the Agency received an amendment to the Application with respect to the Initial Project (the "Amendment"), which Amendment amends the Initial Project to

include the construction of an approximately 12 foot by 80 foot enclosed overhead bridge that will connect the Facility to the proposed convention center (the "Bridge"), so that the Initial Project is now described as follows (the Initial Project, as amended will be referred to as the "Project"): (A) (1) the acquisition of an interest in a parcel of land containing approximately .05 acres and located at 67 Howard Street (Tax Map # 76.33-1-13) in the City of Albany, Albany County, New York (the "Land"), (2) the construction on the Land of a parking facility to contain approximately 300 parking spaces (the "Facility"), (3) the further construction of an approximately 12 foot by 80 foot enclosed overhead bridge that will connect the Facility to the proposed convention center (the "Bridge"), and (4) the acquisition and installation therein and thereon of certain fixtures, machinery and equipment (the "Equipment") (the Land, the Facility, the Bridge and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to be owned by the Company, to constitute a parking facility and to be operated by the Company as a parking facility and 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 SEQRA, (A) the Agency was informed that the Albany Convention Center Authority (the "Lead Agency") was designated the "lead agency" with respect to the Amendment; (B) on May 9, 2014, a Final Environmental Impact Statement (the "FEIS") was accepted and deemed final by the Lead Agency; and (C) on May 19, 2014, a findings statement was prepared and adopted by the Lead Agency (the "Findings Statement") and a notice of completion of the FEIS was filed by the Lead Agency pursuant to 6 NYCRR 617.11(a); and

WHEREAS, pursuant to SEQRA, by resolution adopted by the members of the Agency on April 23, 2015 (the "SEQR Resolution for Amended Project"), the Agency adopted the Findings Statement as the Agency's written findings statement relative to the Amendment, as required by 6 NYCRR 617.11(c); and

WHEREAS, the Agency has given due consideration to the Project, 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; 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 the 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 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; (F) 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; (G) 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"); (H) 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"); and (I) various certificates relating to the Project (the "Closing Documents");"

Section 2. The Agency hereby amends Section 3 of the Approving Resolution to read as follows:

"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 the 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 \$8,003,000;

(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 may 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 Company has represented to the Agency that (1) the

Project is located in an empire zone that 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 (2) 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; and

(I) It is desirable and in the public interest for the Agency to enter into the Agency Documents.”

Section 3. The Agency hereby amends Section 4 of the Approving Resolution to read as follows:

“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) secure the Loan by entering into the Mortgage; and (G) grant the Financial Assistance with respect to the Project.”

Section 4. The Agency hereby amends Section 5 of the Approving Resolution to read as follows:

“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.”

Section 5. The Agency hereby amends Section 6 of the Approving Resolution to read as follows:

“The Agency is hereby authorized to acquire, reconstruct, renovate 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, reconstruction, renovation and installation are hereby ratified, confirmed and approved.”

Section 6. Except as amended by this Resolution, the Approving Resolution shall remain in full force and effect and the terms and conditions thereof are hereby confirmed.

Section 7. 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	_____
C. Anthony Owens	VOTING	_____
Hon. Darius Shahinfar	VOTING	_____
Dominick Calsolaro	VOTING	_____
Lee Eck	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 April 23, 2015 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 23<sup>rd</sup> day of April, 2015.

\_\_\_\_\_  
(Assistant) Secretary

(SEAL)

**AMENDMENTS TO IDA POLICY MANUAL- 2015  
PROJECT MONITORING AND ENFORCEMENT RESOLUTION**

A regular meeting of City of Albany Industrial Development Agency (the “Agency”) was convened in public session at the office of the Department of Development and Planning located at 21 Lodge Street in the City of Albany, Albany County, New York on April 23, 2015 at 12:15 o’clock p.m., local time.

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

**PRESENT:**

Tracy L. Metzger	Chair
Susan Pedo	Vice Chair
C. Anthony Owens	Secretary
Hon. Darius Shahinfar	Treasurer
Dominick Calsolaro	Member
Lee Eck	Member
Robert T. Schofield	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Sarah Reginelli	Chief Executive Officer
Bradley Chevalier	Vice President, Director of Development, Capitalize Albany Corporation
Mark Opalka	Chief Financial Officer
Sabina Mora	Senior Economic Developer, Capitalize Albany Corporation
Andrew Corcione	Economic Developer, Capitalize Albany Corporation
Chantel Burnash	Executive Assistant, Capitalize Albany Corporation
John J. Reilly, Esq.	Agency Counsel
A. Joseph Scott, III, Esq.	Agency Bond Counsel

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

Resolution No. 0415-\_\_

**RESOLUTION APPROVING CERTAIN AMENDMENTS TO THE AGENCY’S  
POLICY MANUAL.**

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, the Agency has adopted a policy regarding the Agency enforcement of Agency projects (the “Project Monitoring and Enforcement Policy”); and

WHEREAS, the staff has reviewed the policy and has made recommendations to the members of the Agency regarding certain modifications to the policy; and

WHEREAS, in connection with such discussion, the Agency has considered making certain revisions to the policy; and

WHEREAS, the proposed revisions are incorporated into the revised Project Monitoring and Enforcement Policy on Schedule A attached hereto; and

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

Section 1. The Agency has reviewed a copy of the revised Project Monitoring and Enforcement Policy attached hereto as Schedule A. The Agency makes the following findings and determinations with respect to the revised Project Monitoring and Enforcement Policy:

(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; and

(B) The approval of the revised Project Monitoring and Enforcement Policy will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of the City of Albany, New York and the State of New York and improve their standard of living; and

(C) It is desirable and in the public interest for the Agency to approve the revised Project Monitoring and Enforcement Policy; and

(D) The adoption by the Agency of the revised Project Monitoring and Enforcement Policy constitutes continuing agency administration and management (not new programs or a major reordering of priorities), and is therefore a “Type II action” under Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”), and the regulations adopted pursuant thereto by the Department of Environment Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations”) (the SEQR Act and the Regulations being collectively referred to as “SEQRA”) and, according, no further action by the Agency under SEQRA is required.

Section 2. The revised Project Monitoring and Enforcement Policy constitutes the amended and restated Part 22 of the Agency’s Policy Manual.

Section 3. The form, terms, and substance of the revised Project Monitoring and Enforcement Policy are hereby approved in all respects.



Section 4. The Agency hereby authorizes the Chair, Agency Staff, and Agency Counsel to take all steps necessary to implement the revised Project Monitoring and Enforcement Policy.

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 Peto	VOTING	_____
C. Anthony Owens	VOTING	_____
Hon. Darius Shahinfar	VOTING	_____
Dominick Calsolaro	VOTING	_____
Lee Eck	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 April 23, 2015 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 23rd day of April, 2015.

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(Assistant) Secretary

(SEAL)

SCHEDULE A

CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY  
REVISED PROJECT MONITORING AND ENFORCEMENT POLICY

- SEE ATTACHED –

## PART 22

### PROJECT MONITORING AND ENFORCEMENT

SECTION 2201. PURPOSE AND AUTHORITY. The purpose of this Part is to outline the procedures utilized by the City of Albany Industrial Development Agency (the "Agency") pursuant to Section 903-a of the General Municipal Law and Title One of Article 18-A of the General Municipal Law (collectively, the "Act") to (A) monitor compliance with Agency requirements relating to the exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (the "Financial Assistance") provided for authorized projects and (B) review satisfaction of the Agency requirements relating to job creation, retention and reporting. Under the Act, the Agency was created in order to advance the job opportunities, health, general prosperity, and economic welfare of the people of the State and to improve their standard of living.

SECTION 2202. JOB CREATION, RETENTION, AND PUBLIC BENEFITS. When considering applications for Financial Assistance, the Agency will consider and review the job creation and retention information contained in the application completed by the applicant. Further, the applicant for each approved project must enter into a project benefits agreement with the Agency (the "Project Benefits Agreement") where the applicant agrees (A) that the amount of Financial Assistance to be received shall be contingent upon, and shall bear a direct relationship to the success or lack of success of such project in delivering certain described public benefits (the "Public Benefits") and (B) the Agency will be entitled to recapture some or all of the Financial Assistance granted to the applicant if the project is unsuccessful in whole or in part in delivering the promised Public Benefits.

#### SECTION 2203. REQUIREMENTS OF THE APPLICANT.

(A) Background. Under the Act, the Agency is required to submit certain annual reports relating to Agency projects to the New York State Office of the Comptroller and to the New York State Authorities Budget Office. In order to satisfy its annual reporting requirements and other requirements under the Act, as well as policies of the Agency, the Agency will require applicants for Financial Assistance to satisfy the requirements described in Section 2203(B) below.

(B) Applicant Requirements. Each applicant for Financial Assistance from the Agency will agree to satisfy the following requirements as a condition to the receipt of such Financial Assistance:

- (1) Except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New

York State Department of Labor Community Services Division (the "DOC") and with the administrative entity (collectively with the DOC, the "JTPA Entities") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JTPA"), as replaced by the Workforce Investment Act of 1998 (Public Law 105-220), in which the Project is located.

(2) Except as otherwise provided by collective bargaining agreements, where practicable, the applicant will first consider persons eligible to participate in the JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the project.

(3) The applicant agrees, whenever requested by the Agency, to provide and certify or cause to be provided and certified such information concerning the Applicant, its finances and other topics as the Agency from time to time reasonably considers necessary or appropriate, including, but not limited to, such information as to enable the Agency to make any reports required by law or governmental regulation.

(4) Within sixty (60) days after the end of each calendar year, the applicant shall furnish to the Agency a certificate of an Authorized Representative of the applicant stating that no event of default under an installment sale agreement or a lease agreement (hereinafter collectively referred to as the "Project Agreement") has occurred or is continuing or, if any event of default exists, specifying the nature and period of existence thereof and what action the applicant has taken or proposes to take with respect thereto, and setting forth the unpaid principal balance of any bonds and accrued but unpaid interest thereon and that no defenses, offsets or counterclaims exist with respect to the indebtedness evidenced thereby.

(5) The applicant shall insure that all employees and applicants for employment with regard to the project are afforded equal employment opportunities without discrimination.

(6) Pursuant to the requirements of subsection one of Section 6 of Chapter 127 of the 1995 Laws of the State, the applicant agrees to file with the Agency, no later than sixty (60) days after the end of each calendar year, reports regarding the number of people employed at the project facility and certain other matters, the initial said report to be in substantially the form annexed as Schedule A attached hereto, and subsequent reports to be in the form annexed as Schedule B attached hereto.

(7) Pursuant to Section 874(8) of the Act, the applicant agrees to annually file and cause any other directly appointed operator of the project facility to file annually, with the New York State Department of Taxation and Finance, on a form and in such manner as is prescribed by the New York State Commissioner of Taxation and Finance ("Form ST-340"), a statement of the value of all sales and use tax exemptions claimed by the applicant and all contractors, subcontractors, consultants and other agents of the applicant under the authority granted to the applicant pursuant to an installment Sale

Agreement and/or a lease agreement and/or a final inducement resolution and/or a sales tax exemption letter.

(8) The applicant agrees, within sixty (60) days of the end of each calendar year, to furnish to the Agency a copy of each ST-340 submitted to the New York State Department of Taxation and Finance by the applicant pursuant to Section 874(8) of the Act.

(9) The applicant agrees, within sixty (60) days of the end of each calendar year until the project is terminated, to furnish to the Agency a copy of the NYS-45 – Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return – for the quarter ending December 31 (the “NYS-45”), and the US Dept. of Labor BLS 3020 Multiple Worksite report if applicable.

(10) The applicant agrees, whenever requested by the Agency, to provide and certify or cause to be provided and certified such information concerning the participation of individuals from minority groups as employees or applicants for employment with regard to the project.

#### SECTION 2204. PROJECT MONITORING.

(A) Monitoring. Agency project monitoring shall include but not be limited to the following:

(1) requesting and reviewing the items outlined in Section 2203(B) and any and all items required to be submitted by an applicant pursuant to the following, including but not limited to: statute, Agency policy, a Project Agreement, or a Project Benefits Agreement; and

(2) confirming with the City Treasurer’s Office and the City Assessor the status of any unpaid payment in lieu of tax (“PILOT”) payments; and

(3) providing for on-site visits of projects identified by the Agency in the calendar year.

(B) Annual Reports. Within seventy-five (75) days after the end of each calendar year, the staff of the Agency will provide the Agency with an annual report describing the compliance by applicants with the requirements described in Section 2203(B) above and the results of the project monitoring described in Section 2204(A), including the filing of annual reports, the amount of sales tax exemption received for a project, and the number of jobs created and retained by the applicant.

(C) Agency Review. The Agency will review the report prepared by the staff of the Agency at a regular meeting of the Agency. After the review of the report prepared by the staff of the Agency, the Agency will take such action as it deems necessary, including but not limited to, (1) scheduling meetings with applicants to review non-compliance and to discuss remedial

actions, (2) considering enforcement action against applicants that fail to comply with the requirements described in Section 2203(B) above, as described in Section 2205 below, (3) considering enforcement action against applicants based on the results of the project monitoring described in Section 2204(A), as described in Section 2205 below, and (4) preparation of letters of commendation or other forms of congratulation to those applicants that have created and/or retained jobs consistent with (or in excess of) the estimates contained in the applicant's original application to the Agency.

(D) PILOT Agreements. (1) Prior to distribution of the PILOT payment bills, the staff of the Agency will confirm with the City Treasurer's Office and the City Assessor the payment amounts for such PILOT bills for the current fiscal year.

(2) The staff of the Agency will also confirm with the City Treasurer's Office and the City Assessor the status of new projects closed in the prior calendar year and the termination of projects whose PILOT term expired or project facility was reconveyed to the applicant.

(E) Reconveyance. (1) Annually the staff of the Agency will review the Project Agreements of all Active Projects to determine if the Project Agreement has expired and the project facility should be reconveyed to the applicant and placed on the taxable roll of the City of Albany.

(2) Annually the staff of the Agency will confirm with the City Treasurer's Office and the City Assessor that a particular project facility should be reconveyed to the applicant and placed on the taxable roll of the City of Albany.

(3) Annually the staff of the Agency will also notify the applicant and work with the applicant and the Agency to file the appropriate documents to place the project on the taxable roll of the City of Albany.

#### SECTION 2205 ENFORCEMENT.

(A) General. Upon completion of the report prepared by the staff of the Agency described in Section 2204(C) above and review of such report by the members of the Agency, the Agency may, after consultation with the staff of the Agency and counsel, initiate enforcement action against applicants as determined by the Agency.

(B) Enforcement Action. Enforcement action by the Agency may include, but not be limited to, the following:

- (1) Requesting the information and/or compliance by a final notice letter.
- (2) Forwarding an event of default notice to the involved parties, including the lender.

(3) Notifying appropriate New York State agencies of (a) the applicant's failure to comply with the requirements of Section 2203(B) above or (b) the negative results of the project monitoring in Section 2204(A) above.

(4) Terminating the Financial Assistance provided by the Agency.

(5) Recapturing some or all of the Financial Assistance granted to the applicant pursuant to the Project Benefits Agreement, if applicable.

(6) In the event of any failure by an applicant to make any required PILOT payment, to coordinate with the City of Albany and any other affected taxing jurisdiction in the recovery of such due payment.



SCHEDULE A  
INITIAL EMPLOYMENT REPORT

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TYPE OF BUSINESS: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

Please complete the following chart describing your projected employment plan following receipt of financial assistance (the "Financial Assistance") from City of Albany Industrial Development Agency (the "Agency"):

Current and Planning Full Time Occupations in Company	Current Number Full Time Jobs Per Occupation	Estimated Number of Full Time Jobs After Completion of the <u>Project</u>		
		1 year	2 year	3 year

PROFESSIONAL

SKILLED/UNSKILLED

SEMI-SKILLED

Please indicate the estimated hiring dates for the new jobs shown above and any special recruitment or training that will be required.

22A-1

012001.00025 Business 13690612v5

Are the employees of your firm currently covered by a collective bargaining agreement?  
Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, Name and Local

Prepared by:

Title:

Signature:

Date:

SCHEDULE B  
SUBSEQUENT EMPLOYMENT REPORT  
EMPLOYMENT PLAN STATUS REPORT  
To be Filed By\_\_\_\_\_

COMPANY NAME\_\_\_\_\_

ADDRESS\_\_\_\_\_

TYPE OF  
BUSINESS\_\_\_\_\_

CONTACT PERSON\_\_\_\_\_

TELEPHONE NUMBER\_\_\_\_\_

OCCUPATION	NUMBER OF NEW JOBS	NUMBER LISTED	NUMBER FILLED	
			NEW YORK STATE JOB BANK APPLICANTS	WORKFORCE INVESTMENT ACT ELIGIBLE PERSONS