

# Albany Industrial Development Agency

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

Anthony J. Ferrara, *Chairman*  
Willard A. Bruce, *Vice-Chairman*  
Kathy Sheehan, *Treasurer*  
Susan Pedo, *Secretary*  
Martin Daley

Michael Yevoli, *Chief Executive Officer*  
Erik J. Smith, *Chief Financial Officer*  
John Reilly, *Agency Counsel*

To: Anthony J. Ferrara      Mike Yevoli  
Willard A. Bruce      Joe Scott  
Kathy Sheehan      John Reilly  
Susan Pedo      Erik Smith  
Martin Daley      Megan Daly  
Brad Chevalier

Date: September 15, 2011

## AGENDA

PLEASE NOTE THAT PUBLIC HEARINGS CONCERNING THE FOLLOWING PROJECTS WILL BE HELD AT 12 NOON On  
Thursday, September 15, 2011 at 21 Lodge Street, Albany, NY 12207

4-6 Sheridan, LLC

The regular meeting of the City of Albany Industrial Development Agency will be held on **Thursday, September 15th, 2011 at 12:15PM** at the 21 Lodge Street, Albany, NY 12207 (Conference Room)

### Roll Call

Reading of Minutes of the Regular Meeting of August 18, 2011

Approval of Minutes of the Regular Meeting of August 18, 2011

### Reports of Committees

Report of Chief Executive Officer

Report of Chief Financial Officer

- Financial Report

### Communications

### Unfinished Business

- Penta on Broadway, LLC Project Synopsis
- Penta on Broadway, LLC SEQR Resolution
- Penta on Broadway, LLC Deviation Resolution
- Penta on Broadway, LLC Project Final Approving Resolution

### New Business

### Other Business

### Adjournment

\* The next regularly scheduled meeting is Thursday, October 20, 2011 at 21 Lodge Street, Albany, NY 12207

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## IDA MINUTES OF REGULAR MEETING Thursday, August 18, 2011

Attending: Tony Ferrara, Bill Bruce, Susan Pedo, Kathy Sheehan, Martin Daley & Prairie Wells

Absent:

Also Present: Joe Scott, Erik Smith, John Reilly, Mike Yevoli, Megan Daly, Amy Gardner, & Brad Chevalier.

Chairman Tony Ferrara called the regular meeting of the IDA to order at 12.15PM.

### **Roll Call**

Chairman Ferrara reported that all Board Members were present.

### **Reading of Minutes of the Regular Meeting of July 21st, 2011**

Since the minutes of the previous meeting had been distributed to Board members in advance for review, Chairman Ferrara made a proposal to dispense with the reading of the minutes.

### **Approval of Minutes of the Regular Meeting of July 21st, 2011**

Chairman Ferrara made a proposal to approve the minutes of the Regular Board Meeting as presented. A motion to accept the minutes, as presented, was made by Kathy Sheehan and seconded by Prairie Wells. A vote being taken, the minutes were accepted unanimously.

Chairman Ferrara recommended the agenda be modified to address Unfinished Business. No objection was rendered and the agenda was so modified.

### **Unfinished Business**

#### Albany Hotel, Inc. Project Synopsis

Joe Scott presented a summary of the project to the board outlining the project and the requests of the IDA. Neil Teplica, from Albany Hotel, Inc. representing the project was present to answer questions. Mr. Scott reviewed each action item pertaining to this project with the Board. The process of capturing employment numbers and jobs created for IDA projects were discussed.

#### Albany Hotel, Inc. SEQR Resolution

Joe Scott reviewed the Resolution with the Board explaining that the findings determined that this project would not have a significant effect on the environment.

Chairman Ferrara presented the Albany Hotel, Inc. SEQR Resolution to the Board. A motion to adopt the Resolution was made by Susan Pedo and seconded by Martin Daley. A vote being taken, the Resolution passed unanimously.

#### Albany Hotel, Inc. PILOT Deviation Resolution

Joe Scott reviewed the Resolution with the Board and assured the Board that the financial assistance does not include the mortgage recording tax.

Chairman Ferrara presented the Albany Hotel, Inc. PILOT Deviation Resolution to the Board. A motion to adopt the Resolution was made by Kathy Sheehan and seconded by Bill Bruce. A vote being taken, the Resolution passed unanimously.

#### Albany Hotel, Inc. Approving Resolution

Chairman Ferrara presented the Albany Hotel, Inc. Approving Resolution to the Board. A motion to adopt the Resolution was made by Kathy Sheehan and seconded by Bill Bruce. A vote being taken, the Resolution passed unanimously.

#### Sixty State Place, LLC Project Synopsis

Joe Scott presented a summary of the project to the Board outlining the project and the requests of the IDA. Mr. Scott reviewed each action item pertaining to this project with the Board.

#### Sixty State Place, LLC SEQR Resolution

Joe Scott reviewed the Resolution with the Board explaining that the findings determined that this project would not have a significant effect on the environment.

Chairman Ferrara presented the Sixty State Place, LLC SEQR Resolution to the Board. A motion to adopt the Resolution was made by Susan Pedo and seconded by Martin Daley. A vote being taken, the Resolution passed unanimously.

#### Sixty State Place, LLC PILOT Deviation Resolution

Chairman Ferrara presented the Sixty State Place, LLC PILOT Deviation Resolution to the Board. A motion to adopt the Resolution was made by Bill Bruce and seconded by Susan Pedo. A vote being taken, the Resolution passed unanimously.

#### Sixty State Place, LLC Approving Resolution

Chairman Ferrara presented the Sixty State Place, LLC Approving Resolution to the Board. A motion to adopt the Resolution was made by Kathy Sheehan and seconded by Martin Daley. A vote being taken, the Resolution passed unanimously.

## **New Business**

## 4-6 Sheridan, LLC Public Hearing Resolution

Guy Alonge, of 4-6 Sheridan, LLC representing the project, presented an overview of the proposed project. The project would involve the renovation of 4-6 Sheridan transforming it into a mixed use building. The building would house 13 residential units with a family style restaurant on the ground floor. 4-6 Sheridan LLC is requesting a 15 year PILOT that includes 100% abatement on the improved assessment for the first 10 years which would then be phased out, decreasing at 16.67% over the following 5 years until full assessment in year 16.

Chairman Ferrara presented the 4-6 Sheridan, LLC Public Hearing Resolution to the Board. A motion to adopt the Resolution was made by Kathy Sheehan and seconded by Prairie Wells. A vote being taken, the Resolution passed unanimously.

### **Reports of Committees**

Bill Bruce reported that the Finance Committee discussed the mortgage recording tax. Mr. Bruce reported that the staff will develop a policy to be reviewed at the next committee meeting.

### **Report of Chief Executive Officer**

Mike Yevoli asked that all board members forward all materials regarding IDA business to staff. Mr. Yevoli also reported that the Common Council is now seeking applicants to fill the two vacant board seats.

### **Executive Session**

Chairman Ferrara made a proposal to enter into executive session. A motion to enter executive session was made by Bill Bruce and seconded by Kathy Sheehan. A vote being taken the proposal was accepted unanimously. The Board entered into executive session at 12:55pm.

Chairman Ferrara entertained a motion to return to the regular session. A motion to return to the regular session was made by Susan Pedo and seconded by Bill Bruce. A vote being taken the motion passed and the Board returned to regular session at 1:15pm. No formal action was taken during the executive session.

### Resolution LaForge v. City of Albany IDA, et al.

Chairman Ferrara presented the Resolution LaForge v. City of Albany IDA, et al. to the Board. A motion to adopt the Resolution was made by Kathy Sheehan and seconded by Bill Bruce. A vote being taken, the Resolution passed unanimously.

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

Erik Smith reviewed the financials with the Board. Mr. Smith reported that through June and July the IDA had seen a variety of application, post closing, and agency fees collected. At the end of July the IDA had a cash balance of just over \$250,000.

### **Communications**

None

**Other Business**

None

There being no further business, Chairman Ferrara adjourned the meeting at 2:00PM.

Respectfully submitted,

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Susan Pedo, Secretary

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**City of Albany IDA**  
2011 Monthly Cash Position  
August 2011

	<b>ACTUAL</b>								<b>PROJECTED</b>				<b>YTD Total</b>
	<b>January</b>	<b>February</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>August</b>	<b>September</b>	<b>October</b>	<b>November</b>	<b>December</b>	
<b>Beginning Balance</b>	\$ 250,836	\$ 238,790	\$ 244,415	\$ 265,007	\$ 252,265	\$ 255,430	\$ 255,393	\$ 240,131	\$ 402,640	\$ 460,717	\$ 430,977	\$ 497,699	\$ 250,836
<b>Revenue</b>													
<b>Fee Revenue</b>													
Application Fee	\$ -	\$ 4,500	\$ -	\$ -	\$ 6,000	\$ 3,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 13,500
Agency Fee	-	-	\$ 25,159	-	-	-	46,875	162,477	91,168	-	91,212	135,375	552,266
Administrative Fee	500	-	-	-	-	-	9,344	-	-	-	-	-	9,844
Modification Fee	1,000	1,500	-	-	-	48,219	-	-	-	-	-	-	50,719
<b>Subtotal - Fee Revenue</b>	<b>\$ 1,500</b>	<b>\$ 6,000</b>	<b>\$ 25,159</b>	<b>\$ -</b>	<b>\$ 6,000</b>	<b>\$ 51,219</b>	<b>\$ 56,219</b>	<b>\$ 162,477</b>	<b>\$ 91,168</b>	<b>\$ -</b>	<b>\$ 91,212</b>	<b>\$ 135,375</b>	<b>\$ 626,329</b>
<b>Other Revenue</b>													
Loan Repayments - Interest	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Loan Repayments - Principal	-	-	-	-	-	-	-	-	-	-	-	-	-
Interest Income	37	33	39	37	38	26	26	32	30	30	30	30	388
Sale of Agency Property	-	-	-	-	-	-	-	-	-	-	-	-	-
NYS BIC	-	-	-	-	-	-	-	-	-	-	-	-	-
Misc	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Subtotal - Other Revenue</b>	<b>\$ 37</b>	<b>\$ 33</b>	<b>\$ 39</b>	<b>\$ 37</b>	<b>\$ 38</b>	<b>\$ 26</b>	<b>\$ 26</b>	<b>\$ 32</b>	<b>\$ 30</b>	<b>\$ 30</b>	<b>\$ 30</b>	<b>\$ 30</b>	<b>\$ 388</b>
<b>Total - Revenue</b>	<b>\$ 1,537</b>	<b>\$ 6,033</b>	<b>\$ 25,198</b>	<b>\$ 37</b>	<b>\$ 6,038</b>	<b>\$ 51,244</b>	<b>\$ 56,245</b>	<b>\$ 162,510</b>	<b>\$ 91,198</b>	<b>\$ 30</b>	<b>\$ 91,242</b>	<b>\$ 135,405</b>	<b>\$ 626,717</b>
<b>Expenditures</b>													
Management Contract	\$ 8,333	\$ -	\$ -	\$ 1,053	\$ 2,708	\$ 2,917	\$ 5,417	\$ -	\$ 8,958	\$ 24,370	\$ 24,370	\$ 24,370	\$ 102,497
APA Contract	5,250	-	-	5,250	-	-	5,250	-	-	5,250	-	-	21,000
Audits	-	-	4,500	2,100	-	-	-	-	-	-	-	-	6,600
Agency Counsel	-	-	-	-	-	42,000	-	-	-	-	-	21,000	63,000
ED Support	-	-	-	4,224	-	5,250	-	-	24,013	-	-	24,013	57,500
Sub-lease AHCC	-	-	-	-	-	-	60,556	-	-	-	-	100,000	160,556
NYS BIC	-	-	-	-	-	-	-	-	-	-	-	-	-
D & O Insurance	-	-	-	-	-	1,010	-	-	-	-	-	-	1,010
Misc.	-	409	105	153	165	105	285	-	150	150	150	150	1,821
Other Legal Expenses	-	-	-	-	-	-	-	-	-	-	-	50,000	50,000
<b>Total - Expenditures</b>	<b>\$ 13,583</b>	<b>\$ 409</b>	<b>\$ 4,605</b>	<b>\$ 12,779</b>	<b>\$ 2,873</b>	<b>\$ 51,282</b>	<b>\$ 71,507</b>	<b>\$ -</b>	<b>\$ 33,121</b>	<b>\$ 29,770</b>	<b>\$ 24,520</b>	<b>\$ 219,533</b>	<b>\$ 463,983</b>
<b>Ending Balance</b>	<b>\$ 238,790</b>	<b>\$ 244,415</b>	<b>\$ 265,007</b>	<b>\$ 252,265</b>	<b>\$ 255,430</b>	<b>\$ 255,393</b>	<b>\$ 240,131</b>	<b>\$ 402,640</b>	<b>\$ 460,717</b>	<b>\$ 430,977</b>	<b>\$ 497,699</b>	<b>\$ 413,570</b>	<b>\$ 413,570</b>

# City of Albany IDA

Fee Detail by Month

August 2011

	Name	Application Fee	Agency Fee	Administration Fee	Modification Fee	TOTAL FEE
<i>January</i>	South Mall Towers	\$ -	\$ -	\$ -	\$ 1,000	\$ 1,000
	CDPHP	-	-	500	-	500
	<b>TOTAL</b>	\$ -	\$ -	\$ 500	\$ 1,000	\$ 1,500
<i>February</i>	Jetro Cash & Carry Restaurant Depot	\$ 1,500	\$ -	\$ -	\$ -	\$ 1,500
	Madison Properties	-	-	-	1,500	-
	39 Sheridan Realty, LLC	1,500	-	-	-	-
	Spanos 255 PatroonCreek Blvd.	1,500	-	-	-	1,500
<b>TOTAL</b>	\$ 4,500	\$ -	\$ -	\$ 1,500	\$ 6,000	
<i>March</i>	FC DCI, LLC	\$ -	\$ 18,695	\$ -	\$ -	\$ 18,695
	Morris St. Development	-	6,464	-	-	6,464
	<b>TOTAL</b>	\$ -	\$ 25,159	\$ -	\$ -	\$ 25,159
<i>April</i>		\$ -	\$ -	\$ -	\$ -	\$ -
	<b>TOTAL</b>	\$ -	\$ -	\$ -	\$ -	\$ -
<i>May</i>	Sixty State Place, LLC	\$ 1,500	\$ -	\$ -	\$ -	\$ 1,500
	Albany Hotel, Inc	1,500	-	-	-	1,500
	Penta on Braodway	1,500	-	-	-	1,500
	SRS Albany, LLC	1,500	-	-	-	1,500
	<b>TOTAL</b>	\$ 6,000	\$ -	\$ -	\$ -	\$ 6,000
<i>June</i>	Downtown Albany Revitaliztion, LLC	\$ 1,500	\$ -	\$ -	\$ -	\$ 1,500
	Swan Street Lots, LP	1,500	-	-	-	1,500
	CSR Series 2007A	-	-	-	7,969	7,969
	CSR Series 2007B	-	-	-	40,250	40,250
		-	-	-	-	-
	<b>TOTAL</b>	\$ 3,000	\$ -	\$ -	\$ 48,219	\$ 51,219

# City of Albany IDA

Fee Detail by Month

August 2011

	Name	Application Fee	Agency Fee	Administration Fee	Modification Fee	TOTAL FEE
<i>July</i>	AMRI	\$ -	\$ -	\$ 1,000	\$ -	\$ 1,000
	CSR Series 2007B			7,844		
	Albany Medical Center			500		
	39 Sheridan Realty, LLC	-	46,875	-	-	-
	<b>TOTAL</b>	<b>\$ -</b>	<b>\$ 46,875</b>	<b>\$ 9,344</b>	<b>\$ -</b>	<b>\$ 56,219</b>
<i>August</i>	SRS Albany, LLC	\$ -	\$ 162,477	-	-	162,477
		-	-	-	-	-
		-	-	-	-	-
		-	-	-	-	-
	<b>TOTAL</b>	<b>\$ -</b>	<b>\$ 162,477</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 162,477</b>
<i>September</i>	Columbia 425 NS, LLC	\$ -	\$ 30,543	\$ -	\$ -	\$ 30,543
	AMRI	-	60,625	-	-	60,625
		-	-	-	-	-
		-	-	-	-	-
	<b>TOTAL</b>	<b>\$ -</b>	<b>\$ 91,168</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 91,168</b>
<i>October</i>		\$ -	\$ -	\$ -	\$ -	\$ -
		-	-	-	-	-
		-	-	-	-	-
		-	-	-	-	-
	<b>TOTAL</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<i>November</i>	Columbia Harriman 455, LLC	\$ -	\$ 91,212	\$ -	\$ -	\$ -
		-	-	-	-	-
		-	-	-	-	-
		-	-	-	-	-
	<b>TOTAL</b>	<b>\$ -</b>	<b>\$ 91,212</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 91,212</b>
<i>December</i>	Sixty State Place, LLC	\$ -	\$ 48,750	\$ -	\$ -	\$ 48,750
	Albany Hotel, Inc	-	75,000	-	-	75,000
	Penta on Broadway	-	11,625	-	-	11,625
		-	-	-	-	-
	<b>TOTAL</b>	<b>\$ -</b>	<b>\$ 135,375</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 135,375</b>
	<b>2011 TOTAL</b>	<b>\$ 13,500</b>	<b>\$ 552,266</b>	<b>\$ 9,844</b>	<b>\$ 50,719</b>	<b>\$ 626,329</b>
		<i>Application Fee</i>	<i>Agency Fee</i>	<i>Administration Fee</i>	<i>Modification Fee</i>	<i>TOTAL FEE</i>



**City of Albany CRC**  
2011 Monthly Cash Position  
August 2011

	<b>ACTUAL</b>								<b>PROJECTED</b>				<b>YTD Total</b>
	<b>January</b>	<b>February</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>August</b>	<b>September</b>	<b>October</b>	<b>November</b>	<b>December</b>	
<b>Beginning Balance</b>	\$ 3,101	\$ 4,601	\$ 260,820	\$ 260,842	\$ 153,792	\$ 135,679	\$ 85,524	\$ 244,796	\$ 229,398	\$ 210,407	\$ 204,903	\$ 199,399	\$ 3,101
<b>Revenue</b>													
<b>Fee Revenue</b>													
Application Fee	\$ 1,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,500
Agency Fee	-	256,200	-	-	-	-	159,263	-	-	-	-	-	415,463
Administrative Fee	-	-	-	-	-	-	-	-	-	-	-	-	-
Modification Fee	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Subtotal - Fee Revenue</b>	<u>\$ 1,500</u>	<u>\$ 256,200</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 159,263</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 416,963</u>
<b>Other Revenue</b>													
Interest Income	\$ 0	\$ 19	\$ 22	\$ 16	\$ 13	\$ 11	\$ 9	\$ 20	\$ 20	\$ 20	\$ 20	\$ 20	190
NYS BIC	-	-	-	-	-	-	-	-	-	-	-	-	-
Misc	-	-	-	157	-	-	-	-	-	-	-	-	157
<b>Subtotal - Other Revenue</b>	<u>\$ 0</u>	<u>\$ 19</u>	<u>\$ 22</u>	<u>\$ 173</u>	<u>\$ 13</u>	<u>\$ 11</u>	<u>\$ 9</u>	<u>\$ 20</u>	<u>\$ 20</u>	<u>\$ 20</u>	<u>\$ 20</u>	<u>\$ 20</u>	<u>\$ 347</u>
<b>Total - Revenue</b>	<u>\$ 1,500</u>	<u>\$ 256,219</u>	<u>\$ 22</u>	<u>\$ 173</u>	<u>\$ 13</u>	<u>\$ 11</u>	<u>\$ 159,272</u>	<u>\$ 20</u>	<u>\$ 20</u>	<u>\$ 20</u>	<u>\$ 20</u>	<u>\$ 20</u>	<u>\$ 417,310</u>
<b>Expenditures</b>													
Management Contract	\$ -	\$ -	\$ -	\$ 73,947	\$ 18,125	\$ 17,917	\$ -	\$ 15,417	\$ 5,524	\$ 5,524	\$ 5,524	\$ 5,524	\$ 147,503
Audits	-	-	-	-	-	-	-	-	-	-	-	-	-
Agency Counsel	-	-	-	-	-	-	-	-	-	-	21,000	-	21,000
ED Support	-	-	-	33,276	-	32,250	-	-	13,487	-	-	13,487	92,500
D & O Insurance	-	-	-	-	-	-	-	-	-	-	-	-	-
Misc.	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Total - Expenditures</b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 107,224</u>	<u>\$ 18,125</u>	<u>\$ 50,167</u>	<u>\$ -</u>	<u>\$ 15,417</u>	<u>\$ 19,011</u>	<u>\$ 5,524</u>	<u>\$ 5,524</u>	<u>\$ 40,011</u>	<u>\$ 261,003</u>
<b>Ending Balance</b>	<u>\$ 4,601</u>	<u>\$ 260,820</u>	<u>\$ 260,842</u>	<u>\$ 153,792</u>	<u>\$ 135,679</u>	<u>\$ 85,524</u>	<u>\$ 244,796</u>	<u>\$ 229,398</u>	<u>\$ 210,407</u>	<u>\$ 204,903</u>	<u>\$ 199,399</u>	<u>\$ 159,407</u>	<u>\$ 159,407</u>

**City of Albany CRC**

Fee Detail by Month

August 2011

	<b>Name</b>	<b>Application Fee</b>	<b>Agency Fee</b>	<b>Administration Fee</b>	<b>Modification Fee</b>	<b>TOTAL FEE</b>
<i>January</i>	The College of St. Rose	\$ 1,500	\$ -	\$ -	\$ -	\$ 1,500
		-	-	-	-	-
	<b>TOTAL</b>	<b>\$ 1,500</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,500</b>
<i>February</i>	St. Peter's Hospital of the City of Albany	\$ -	\$ 256,200	\$ -	\$ -	\$ 256,200
		-	-	-	-	-
	<b>TOTAL</b>	<b>\$ -</b>	<b>\$ 256,200</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 256,200</b>
<i>March</i>		\$ -	\$ -	\$ -	\$ -	\$ -
		-	-	-	-	-
	<b>TOTAL</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<i>April</i>		\$ -	\$ -	\$ -	\$ -	\$ -
		-	-	-	-	-
	<b>TOTAL</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<i>May</i>		\$ -	\$ -	\$ -	\$ -	\$ -
		-	-	-	-	-
	<b>TOTAL</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<i>June</i>		\$ -	\$ -	\$ -	\$ -	\$ -
		-	-	-	-	-
	<b>TOTAL</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

# City of Albany CRC

Fee Detail by Month

August 2011

	Name	Application Fee	Agency Fee	Administration Fee	Modification Fee	TOTAL FEE
<i>July</i>	The College of St. Rose	\$ -	\$ 159,263	-	-	159,263
	<b>TOTAL</b>	\$ -	\$ 159,263	\$ -	\$ -	\$ 159,263
<i>August</i>		\$ -	-	-	-	-
	<b>TOTAL</b>	\$ -	-	-	-	-
<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>2011 TOTAL</b>	\$ 1,500	\$ 415,463	\$ -	\$ -	\$ 416,963
		<i>Application Fee</i>	<i>Agency Fee</i>	<i>Administration Fee</i>	<i>Modification Fee</i>	<i>TOTAL FEE</i>

**TO:** City of Albany Industrial Development Agency Board

**FROM:** City of Albany Industrial Development Agency Staff

**RE:** Penta on Broadway, LLC- Updated IDA Application Summary

**DATE:** September 9, 2011

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**Applicant:** Penta on Broadway, LLC

**Managing Members:** Charles B. Rosenstein, Christopher Maddalone, Seth Meltzer

**Project Location:** 522-524 Broadway

**Project Description:** Proposed conversion of approximately 18,000 sq.ft. of vacant commercial space to 14 residential rental units (floors 2, 3, 4) and approximately 3,000 sq.ft. of rentable commercial space (ground floor). The 4<sup>th</sup> floor will also have a laundry room and exercise area for residents. The project will require the removal and replacement of many of the existing partition walls, plumbing, electrical wiring, HVAC, windows, etc.

**Estimated Project Cost:** \$1,550,000

**Type of Financing:** Straight Lease

**Amount of Bonds Requested:** None

**Estimated Total Purchases Exempt from Sales Tax:** \$648,813

**Total Mortgage Amount:** \$1,058,000

**Current Assessment:** \$515,000

**Estimated Improved Assessment:** \$1,550,000

**Requested PILOT:** A 15 year PILOT with 100% abatement on the increased assessment value (after completion of the project) for the first 10 years. Then the abatement on the increased assessment value decreases for the following 5 years at 16.66% per year. At which time full assessment will be paid in Year 16 and every year thereafter.

**Estimated Value of Total PILOT Payments:**

- Total PILOT Payments: \$577,279 (over 15 year PILOT period)

**Estimated Value of Tax Exemptions:**

- NYS Sales and Compensating Use Tax: \$51,905
- Mortgage Recording Tax: None

- Real Property Tax (compared to 485a): \$184,944 (over 15 year PILOT period)
- Other: None

**Employment Impact:**

- Projected Permanent: N/A (potential for creation of jobs upon commercial space rental)
- Projected Construction: (9) jobs will be associated with this project, excludes subcontractors

**Cost per Job Created:**

- Year 1 Cost: \$2,000 (9 construction jobs created. *Note: If commercial tenant is found, the cost per job would decrease due to increase in jobs created*)

**Other Economic Impacts:**

- Decreases the overall commercial vacancy rate downtown
- Adds to the supply of downtown residential to help meet the demand for such living options (as stated in Zimmerman/Volk Associates downtown residential market study)
- Increases consumer base to support downtown businesses
- Offers another option to downtown retail (when tenant is found)
- Increases local sales tax revenues (when retail tenant is found)

**Strategic Initiatives:**

- Revitalization and Diversification of Downtown - adaptive reuse of underutilized or vacant buildings
  - Eligible for the 485a Real Property Tax Abatement Program
  - Part of Capitalize Albany Corporation Real Estate Loan Program

**Planning Board Actions:**

- Issued a Negative Declaration for this Unlisted Action as per the provisions of SEQR on 6/23/11
- Approved the site plan on 6/23/11 with the following conditions:
  - The applicant shall obtain final approval from Department of Water & Water Supply and the Division of Fire and Emergency Services

**Estimated IDA Fee**

- Fee amount: \$11,625

**Mission**

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

**CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY  
LEASE/LEASEBACK TRANSACTION  
PENTA ON BROADWAY LLC PROJECT**

**I. PROJECT IDENTIFICATION:**

1. Project Applicant: Penta on Broadway LLC, a limited liability company organized and existing under the laws of the State of New York (the "Company").
2. The Project:
  - (A) Acquisition of Land and Structures: the acquisition of an interest in a parcel of real estate containing approximately .09 acres located at 522-524 Broadway in the City of Albany, Albany County, New York (the "Land"), together with the existing buildings located thereon containing in the aggregate approximately 19,040 square feet of space (the "Facility").
  - (B) Construction/Renovations: the reconstruction and renovation of the Facility.
  - (C) Equipment component: the acquisition and installation therein and thereon of certain machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment being hereinafter collectively referred to as the "Project Facility").
  - (D) Lease: The Project Facility will be leased by the Agency to the Company pursuant to a lease agreement (the "Lease Agreement") by and between the Agency and the Company, which Project Facility will be owned by the Company and leased to various tenants for residential and commercial uses and other directly and indirectly related activities.

**II. PRIOR ACTION ON PROJECT:**

3. Preliminary Inducement Proceedings:
  - (A) Public Hearing Resolution: adopted on July 21, 2011.
  - (B) Public Hearing:
    - (1) Mailed to Affected Taxing Jurisdictions: August 8, 2011.
    - (2) Date Posted: August 8, 2011.
    - (3) Published in Albany Times Union: August 8, 2011.
    - (4) Date of Public Hearing: August 18, 2011.
    - (5) Location of Public Hearing: offices of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York.
4. Payment In Lieu of Taxes:
  - (A) PILOT Deviation: The Company requested a deviation from the Agency's Uniform Tax Exemption Policy.
  - (B) Procedure: PILOT Deviation Letter Mailed to Affected Tax Jurisdictions: September 2, 2011.

**III. PROPOSED AGENCY ACTION ON September 15, 2011:**

5. SEQR Resolution: Unlisted Action.
6. PILOT Deviation Approval Resolution: Approving the terms of the requested PILOT deviation.

7. Approving Resolution: Approving the Company's project and the proposed financial assistance.

**IV. DETAILS OF PROPOSED STRAIGHT LEASE TRANSACTION:**

8. Relationship of Agency to Company: The Agency will acquire, reconstruct and install the Project Facility and lease the Project Facility to the Company pursuant to the Lease Agreement.
9. Business Terms:
  - (A) The Agency fee is estimated to be \$11,015.25 (¾ of 1% of the Project costs of \$1,468,700 (est)).
  - (B) The Agency will grant a PILOT deviation in the amount described in the PILOT Deviation Letter mailed on September 2, 2011 and will require the Company to pay the mortgage recording tax for the Project.
10. Basic Documents:
  - (A) Underlying Lease from the Company to the Agency.
  - (B) License Agreement from the Company to the Agency.
  - (C) Bill of Sale to Agency.
  - (D) Lease Agreement by and between the Company and the Agency.
  - (E) Payment in Lieu of Tax Agreement by and between the Agency and the Company.
11. Proposed Closing Date: October \_\_, 2011.
12. Special Agency Counsel: Hodgson Russ LLP, Albany, New York.

**SEQR RESOLUTION  
PENTA ON BROADWAY LLC PROJECT**

A regular meeting of City of Albany Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York on September 15, 2011 at 12:15 p.m., local time.

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

**PRESENT:**

Anthony J. Ferrara	Chairman
Willard A. Bruce	Vice Chairman
Susan Pedo	Secretary
Hon. Kathy Sheehan	Treasurer
Martin Daley	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Michael J. Yevoli	CEO - Capitalize Albany Corporation
Megan Daly	Department of Development and Planning
Erik Smith	CFO - Capitalize Albany Corporation
Bradley Chevalier	Economic Development Specialist, Capitalize Albany Corporation
Amy Gardner	Administrative Assistant, Capitalize Albany Corporation
John J. Reilly, Esq.	Corporation Counsel
A. Joseph Scott, III, Esq.	Special Agency Counsel

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

Resolution No. 0911-\_\_

**RESOLUTION DETERMINING THAT ACTION TO UNDERTAKE A PROJECT FOR THE BENEFIT OF PENTA ON BROADWAY LLC WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.**

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



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

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

WHEREAS, Penta on Broadway LLC, a New York limited liability company (the “Company”) presented an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in a parcel of real estate containing approximately .09 acres located at 522-524 Broadway in the City of Albany, Albany County, New York (the “Land”), together with the existing buildings located thereon containing in the aggregate approximately 18,000 square feet of space (the “Facility”), (2) the reconstruction and renovation of the Facility and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment being hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned and operated by the Company and leased to various tenants for residential and commercial uses 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 Project; and

WHEREAS, to aid the Agency in determining whether the Project may have a significant effect upon the environment, the Company has prepared and submitted to the Agency an environmental assessment form (the “EAF”) with respect to the Project, a copy of which EAF was presented to and reviewed by the Agency at this meeting and a copy of which is on file at the office of the Agency; and

WHEREAS, the Agency has also received a notification of local action from the City of Albany Planning Board (the “Planning Board”), dated June 23, 2011, in which the Planning Board determined to issue a negative declaration pursuant to SEQRA with respect to the Project and a copy of such negative declaration is attached as Exhibit A (the “Planning Board SEQR Determination”); and

WHEREAS, pursuant to SEQRA, the Agency has examined the EAF in order to make a determination as to the potential environmental significance of the Project; and

WHEREAS, the Project does not appear to constitute a “Type I Action” (as said quoted term is defined in the Regulations), and therefore coordinated review and notification is optional with respect to the actions contemplated by the Agency with respect to the Project; and

WHEREAS, the Agency desires to conduct an uncoordinated review of the Project and to determine whether the Project may have a “significant effect on the environment” and therefore require the preparation of an environmental impact statement;

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

Section 1. Based upon an examination of the Application, the EAF, and the Planning Board SEQR Determination (collectively, the “Reviewed Materials”) and based further upon the Agency’s knowledge of the area surrounding the Project Facility and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings with respect to the Project:

A. The project (the “Project”) consists of the following: (A) (1) the acquisition of an interest in a parcel of real estate containing approximately .09 acres located at 522-524 Broadway in the City of Albany, Albany County, New York (the “Land”), together with the existing buildings located thereon containing in the aggregate approximately 18,000 square feet of space (the “Facility”), (2) the reconstruction and renovation of the Facility and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment being hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned and operated by the Company and leased to various tenants for residential and commercial uses 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

B. No potentially significant impacts on the environment are noted in the Reviewed Materials, and none are known to the Agency.

Section 2. Based upon the foregoing investigation of the potential environmental impacts of the Project and considering both the magnitude and importance of each environmental impact therein indicated, the Agency makes the following findings and determinations with respect to the Project:

A. The Project constitutes an “Unlisted Action” (as said quoted term is defined in the Regulations) and therefore coordinated review and notification of other involved agencies is strictly optional. The Agency hereby determines not to undertake a coordinated review of the Project, and therefore will not seek lead agency status with respect to the Project;

B. The Project will result in no major impacts and, therefore, is one which will not cause significant damage to the environment. Therefore, the Agency hereby determines that the Project will not have a significant effect on the environment, and the Agency will not require the preparation of an environmental impact statement with respect to the Project; and

C. As a consequence of the foregoing, the Agency has decided to prepare a negative declaration with respect to the Project.

Section 3. The Chief Executive Officer of the Agency is hereby directed to prepare a negative declaration with respect to the Project, said negative declaration to be substantially in the form

and to the effect of the negative declaration attached hereto, and to cause copies of said negative declaration to be (A) filed in the main office of the Agency and (B) distributed to the Company.

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:

Anthony J. Ferrara	VOTING	_____
Willard A. Bruce	VOTING	_____
Susan Pedo	VOTING	_____
Hon. Kathy Sheehan	VOTING	_____
Martin Daley	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 September 15, 2011 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 \_\_\_\_ day of September, 2011.

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

(SEAL)

NOTICE OF DETERMINATION  
OF NO SIGNIFICANT EFFECT  
ON THE ENVIRONMENT

TO ALL INTERESTED AGENCIES, GROUPS AND PERSONS:

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"), notice is hereby given that City of Albany Industrial Development Agency (the "Agency") has reviewed an application and an environmental assessment form from Penta on Broadway LLC (the "Company") in connection with the proposed project described below (the "Project") and that the Agency has determined (A) that the proposed Project is an "Unlisted Action" pursuant to the Regulations, and therefore that coordinated review and notification is optional with respect to said Project; (B) to conduct an uncoordinated review of the Project; (C) that the Project will result in no major impacts and therefore will not have a significant effect on the environment; and (D) therefore that an environmental impact statement is not required to be prepared with respect to the Project. THIS NOTICE IS A NEGATIVE DECLARATION FOR THE PURPOSES OF THE ACT.

1. Lead Agency: The Agency has determined not to follow the coordinated review provisions of the Regulations. Therefore, there is no lead agency for the Project.

2. Person to Contact for Further Information: Michael J. Yevoli, Chief Executive Officer, City of Albany Industrial Development Agency, 21 Lodge Street, Albany, New York 12207; Telephone No. (518) 434-2532.

3. Project Identification: Proposed Penta on Broadway LLC Project.

4. Project Description: The Project (the "Project") consists of the following: (A) (1) the acquisition of an interest in a parcel of real estate containing approximately .09 acres located at 522-524 Broadway in the City of Albany, Albany County, New York (the "Land"), together with the existing buildings located thereon containing in the aggregate approximately 18,000 square feet of space (the "Facility"), (2) the reconstruction and renovation of the Facility and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment being hereinafter collectively referred to as the "Project Facility"), all of the foregoing to be owned and operated by the Company and leased to various tenants for residential and commercial uses 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.

5. Project Location: The Project Facility will be located at 522-524 Broadway in the City of Albany, Albany County, New York.

6. Reasons for Determination of Non-Significance: By resolution adopted by the members of the Agency on September 15, 2011, no significant environmental impacts were identified by the Agency in its review of the environmental assessment form submitted to the Agency with respect to the Project and, based upon the Agency's knowledge of the area surrounding the Project Facility and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, no significant environmental impacts are known to the Agency.

7. Comment Period: All interested parties, groups and persons disagreeing with or otherwise desiring to comment upon the Agency's environmental determination with respect to this Project are invited to submit written comments for consideration by the Agency. All such comments should be sent by mail addressed to Michael J. Yevoli, Chief Executive Officer at the address specified in paragraph two hereof.

Dated: September \_\_, 2011

CITY OF ALBANY INDUSTRIAL  
DEVELOPMENT AGENCY

BY: \_\_\_\_\_  
Chief Executive Officer

EXHIBIT A  
PLANNING BOARD SEQR DETERMINATION  
- SEE ATTACHED -

**NOTIFICATION OF LOCAL ACTION  
DECISION OF THE CITY OF ALBANY PLANNING BOARD**

ADDRESS OF SUBJECT PROPERTY: 522 Broadway

IN THE MATTER OF: Site Plan Approval to allow for the conversion of the upper four (4) floors of the building from commercial office space to fourteen (14) residential dwelling units.

APPLICANT: Penta on Broadway, LLC  
ADDRESS: 465 New Karner Rd., Albany, NY 12205

CASE NUMBER: 6-11, 812

Date Received: 6/3/11  
Preliminary Presentation: 6/23/11  
Subsequent Presentations: N/A  
SEQR Determination: 6/23/11  
Date of Decision: 6/23/11

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Vote:	For Approval:	3	Abbott:	Y	Pryor:	NV
	Against:	0	Fox:	NIA	Trant:	Y
	Abstain:	0	Hancox:	Y		

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**Relevant Considerations:**

**Owner/Applicant:** Penta on Broadway, LLC

**Parcel size:** 0.09 acres.

**Property Valuation:** \$515,000.00

**Location:** The property is located on the west side of Broadway between Pine Street and Steuben Place.

**Zoning:** Central Business (C-3). The proposed use is permitted within the district; no zoning approvals are required.

**Surrounding Uses:** *North:* 96,781 square foot commercial office building. *West:* 101,730 square foot office / retail structure (fronts on Pearl Street). *East:* NYS Dormitory Authority; Columbia Parking Garage. *South:* 9,520 square foot mixed-use building approved for residential conversion on upper floors; Maiden Lane Park.

**Proposed Project:** The applicant is proposing to convert the upper four floors of this 18,000 square foot structure for use as fourteen residential dwelling units. The upper



floor space was formerly occupied as commercial office space. An approximately 3,000 square foot retail and/or office space is to occupy the ground floor space. Floors 2-4 will each be comprised of four one-bedroom dwelling units varying from 626 to 698 square feet in size. The 5<sup>th</sup> floor will have two, two-bedroom dwelling units (1,040 & 1,107 square feet), a workout room, laundry facilities and a rooftop terrace. The façade of the building will be restored as existing and the owner intends to seek historic tax credits for the project. The building appears from Broadway as two separate structures, as it once existed.

**Traffic:** There will be no direct on-site traffic as a result of the project. The applicant intends to coordinate with the Albany Parking Authority to secure the option for parking at a neighboring garage. Delivery and move in / move out accommodations will also need to be coordinated with the City's Traffic Engineering Division.

**Bike/Pedestrian/Transit:** The location has excellent access to all modes of transportation and is very close to the pedestrian bridge providing access to recreational opportunities along the City's waterfront. A bicycle rack is proposed at the street front along Broadway.

**Water/Sewer:** The engineer has yet to determine the exact location of the utility lines. It is anticipated that existing services will be sufficient to accommodate any increase in demand. The increase is expected to be negligible.

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**Actions Taken:**

The Board issued a **Negative Declaration** for this **Unlisted Action** as per the provisions of SEQR, as the environmental impacts are negligible or non-existent.

The Board **Approved** the site plan with the following conditions:

1. The applicant shall obtain final approval from the Department of Water & Water Supply and the Division of Fire and Emergency Services.

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I, **Edward Trant** representing the **Planning Board of the City of Albany**, hereby certify that the foregoing is a true copy of a decision of the Planning Board made at a meeting thereof duly called and held on the day of June 23, 2011.

Date: **6/23/11** Signature: Edward R. Trant

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This is not a building permit. All building permits must be approved and issued by the Building Department prior to the start of any construction.

Prior to making an application for a Certificate of Occupancy, the applicant will be required to submit to the Building Department an "as built" site plan which depicts all elements shown on the approved site plan including but not limited to contours, landscaping, building locations, utilities paved and parking areas, signage, accessory structures and other related physical improvements.

**PILOT DEVIATION APPROVAL RESOLUTION  
PENTA ON BROADWAY LLC PROJECT**

A regular meeting of City of Albany Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York on September 15, 2011 at 12:15 p.m., local time.

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

**PRESENT:**

Anthony J. Ferrara	Chairman
Willard A. Bruce	Vice Chairman
Susan Pedo	Secretary
Hon. Kathy Sheehan	Treasurer
Martin Daley	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Michael J. Yevoli	CEO - Capitalize Albany Corporation
Megan Daly	Department of Development and Planning
Erik Smith	CFO - Capitalize Albany Corporation
Bradley Chevalier	Economic Development Specialist, Capitalize Albany Corporation
Amy Gardner	Administrative Assistant, Capitalize Albany Corporation
John J. Reilly, Esq.	Corporation Counsel
A. Joseph Scott, III, Esq.	Special Agency Counsel

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

Resolution No. 0911-\_\_

**RESOLUTION AUTHORIZING A DEVIATION FROM THE AGENCY'S UNIFORM TAX EXEMPTION POLICY IN CONNECTION WITH THE PROPOSED PAYMENT IN LIEU OF TAX AGREEMENT TO BE ENTERED INTO BY THE AGENCY IN CONNECTION WITH THE PROPOSED PENTA ON BROADWAY 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 commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job

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

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

WHEREAS, Penta on Broadway LLC, a New York limited liability company (the “Company”) presented an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A)(1) the acquisition of an interest in a parcel of real estate containing approximately .09 acres located at 522-524 Broadway in the City of Albany, Albany County, New York (the “Land”), together with the existing buildings located thereon containing in the aggregate approximately 18,000 square feet of space (the “Facility”), (2) the reconstruction and renovation of the Facility and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment being hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned and operated by the Company and leased to various tenants for residential and commercial uses 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 July 21, 2011 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on August 8, 2011 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 August 8, 2011 on a bulletin board located in the City Hall Rotunda located in the City of Albany, Albany County, New York, (C) caused notice of the Public Hearing to be published on August 8, 2011 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 August 18, 2011, at 12:00 o’clock p.m., local time at the offices of the City of Albany Industrial Development Agency located at 21 Lodge Street in City of Albany, Albany County, New York, and (E) prepared a report of the Public Hearing (the “Report”) which fairly summarizes the views presented at said Public Hearing and shall file the same in the files of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”), and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (the “Regulations”, and collectively with the SEQR Act, “SEQRA”), by resolution adopted by the members of the Agency on September 15, 2011 (the “SEQR Resolution”), the Agency determined (A) that the Project constituted an “Unlisted Action” under SEQRA, (B) that the Project would not have a “significant effect on the

environment” pursuant to SEQRA and, therefore, that no environmental impact statement need be prepared with respect to the Project, and (C) as a consequence of the foregoing, to prepare a negative declaration with respect to the Project; and

WHEREAS, in connection with the Project, the Company has requested that the Agency deviate from its uniform tax exemption policy with respect to the terms of the proposed payment in lieu of tax agreement to be entered into by the Agency with respect to the Project Facility, which proposed deviation is outlined in the letter dated September 2, 2011 (the “Pilot Deviation Letter”), a copy of which Pilot Deviation Letter is attached hereto as Exhibit A; and

WHEREAS, pursuant to Section 874(4) of the Act, prior to taking final action on such request for a deviation from the Agency’s uniform tax exemption policy, the Agency must give the chief executive officers of the County and each city, town, village and school district in which the Project Facility is located (collectively, the “Affected Tax Jurisdictions”) written notice of the proposed deviation from the Agency’s uniform tax exemption policy and the reasons therefor no fewer than ten (10) days prior to the meeting of the Agency at which the members of the Agency shall consider whether to approve such proposed deviation; and

WHEREAS, pursuant to Section 856(15) of the Act, unless otherwise agreed by the affected tax jurisdictions, payments in lieu of taxes must be allocated among the affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the Project Facility not been tax exempt due to the status of the Agency; and

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

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

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

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

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

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

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

Agency hereby approves a deviation from the Agency’s uniform tax exemption policy, such deviation to be as described in the Pilot Deviation Letter.

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

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

Section 5. This Resolution shall take effect immediately.

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

Anthony J. Ferrara	VOTING	_____
Willard A. Bruce	VOTING	_____
Susan Pedo	VOTING	_____
Hon. Kathy Sheehan	VOTING	_____
Martin Daley	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 September 15, 2011 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 \_\_\_\_ day of September, 2011.

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

(SEAL)

**EXHIBIT A**

**PILOT DEVIATION LETTER**

CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY

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

September 2, 2011

Hon. Gerald D. Jennings, Mayor  
City of Albany  
City Hall  
Eagle Street  
Albany, New York 12207

Hon. Michael G. Breslin, County Executive  
Office of the County Executive  
County Office Building  
112 State Street, Room 200  
Albany, New York 12207

Dr. Raymond Colucciello  
Superintendent of Schools  
Albany City School District  
Academy Park  
Albany, New York 12207

RE: Proposed Deviation from Uniform Tax Exemption Policy by  
City of Albany Industrial Development Agency in connection  
with its Proposed Penta on Broadway LLC Project

Gentlemen:

Penta on Broadway LLC, a New York limited liability company (the "Company") presented an application (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in a parcel of real estate containing approximately .09 acres located at 522-524 Broadway in the City of Albany, Albany County, New York (the "Land"), together with the existing buildings located thereon containing in the aggregate approximately 18,000 square feet of space (the "Facility"), (2) the reconstruction and renovation of the Facility and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment being hereinafter collectively referred to as the "Project Facility"), all of the foregoing to be owned and operated by the Company and leased to various tenants for residential and commercial uses 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.

In connection with the Application, the Company has made a request to the Agency (the "PILOT

Request”) that the Agency enter into a payment in lieu of tax agreement (the “Proposed PILOT Agreement”) which terms would deviate from the Agency’s Uniform Tax Exemption Policy (the “Policy”). The Proposed Agreement would not provide any abatements for any special assessments levied on the Project Facility. The Proposed PILOT Agreement would provide that the Company be granted a fifteen year payment in lieu of tax agreement on the Facility and any portion of the Equipment assessable as real property pursuant to the New York Real Property Tax Law. Under the terms of the Proposed PILOT Agreement, the Company will pay (a) a base PILOT payment equal to one hundred percent (100%) of the normal taxes due on the Land and the existing assessed value of the Facility, and (b) an additional amount based on the increase in assessed value of the Project Facility (such increase in the assessed value due to the undertaking of the Project shall be referred to as the “Improvements”), such increased amount to be adjusted by the abatement as described as follows:

<b>Years</b>	<b>Amount of Abatement on Increased Assessment</b>
1 - 10	100%
11	83.33%
12	66.67%
13	50.00%
14	33.33%
15	16.67%
16 and thereafter	0%

The actual amount of both the base PILOT payment and the additional amount described in clauses (a) and (b) above will vary over the term of the Proposed PILOT Agreement as the assessed value of the Land, the existing Facility and the Improvements change and as the tax rates of the local taxing entities change during the term of the Proposed PILOT Agreement.

The estimated payment terms of the Proposed PILOT Agreement are attached as Exhibit A to this letter.

The terms of the Proposed PILOT Agreement deviate from the Agency’s Policy. The Policy provides that, for a facility similar to the Project Facility, payments in lieu of taxes will normally be determined as follows: a 50% abatement in real property taxes on the Improvements in year one of the payment in lieu of tax agreement with a 10% per year decrease in such abatement over the term of the five year payment in lieu of tax agreement.

As provided in the Agency’s Policy, the amount of the assessed value of the Project Facility is not fixed and will change as the assessed value is established annually by the Assessor of the City of Albany.

The purpose of this letter is to inform you of such PILOT Request and that the Agency is considering whether to grant the PILOT Request and to approve a Proposed PILOT Agreement conforming to the terms of the PILOT Request. The Agency expects to consider whether to approve the terms of the Proposed PILOT Agreement at its meeting scheduled for September 15, 2011 at 12:15 p.m., local time at the offices of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York (the “Meeting”). As described later in this letter, during the meeting on September 15, 2011, the Agency will review the terms of the PILOT Request and, based on the discussions during such meeting the terms of the PILOT Request may be modified.



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

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

1. The nature of the proposed Project:

The Project involves the reconstruction and renovation of an existing building to be owned by the Company and leased to various tenants for commercial, retail and/or residential uses and other directly and indirectly related activities.

2. The nature of the property before the undertaking of the Project:

One (1) parcel of land together with an existing building located thereon. The building is currently vacant and was formerly used as commercial office space.

3. The economic condition of the area at the time of the application and the economic multiplying effect that the Project will have on the area:

At the time of the filing of the Application, the economic condition of the area in which the Project Facility is to be located is generally average to poor. The area is strategically targeted for adding downtown residential development, based on the presence of vacant or underutilized buildings to be converted, as well as the emerging residential projects that are occurring proximate to this building. This will create a neighborhood district, a goal of the City of Albany's economic development strategy; Capitalize Albany.

The Project will create construction jobs, thus generating revenue for the City of Albany and surrounding areas. The major positive impact of the Project is the creation of downtown housing, which is consistent with the downtown development plan of the City of Albany. New residents in the downtown area will provide economic growth for the business and entertainment facilities located in the downtown, and result in further residential development. Additional benefits created by the Project are described in the Application.

4. The extent to which the Project will create or retain permanent, private sector jobs and the number of jobs to be created or retained and the salary range of such jobs:

The Project will create approximately 9 construction jobs over the approximately one-year construction period with a payroll of approximately \$270,000.

The Company has estimated that the Project will create approximately 1 full-time job within the first year of operation. While the Project will not directly create significant new permanent employment, the Project is expected to result in the retention and creation of employment in the retail, restaurant and entertainment operations located in the downtown.

5. The estimated value of tax exemptions to be provided:

As described in Exhibit A to this letter, the amount of estimated PILOT payments on the Project Facility would start at approximately \$22,280 and end at \$90,142 over a 15-year period, resulting in approximately \$577,279 of PILOT payments paid by the Company.

Note also that the period and the amount of the real property tax abatement during the first 15 years of the term of the Proposed PILOT Agreement is similar to the benefits offered under Section 485-a of the Real Property Tax Law. The Company and the Project are eligible for the real property abatement program provided under Section 485-a of the Real Property Tax Law.

The balance of the payment terms were reviewed with the Company and determined based on the Company's business model, the rents to be paid by the potential tenants, the covenants and restrictions of the financing to be incurred by the Company to undertake the Project.

6. The economic impact of the Proposed PILOT Agreement on affected tax jurisdictions:

The economic impact of the Project PILOT Agreement is positive as the Company will be paying more PILOT payments than is currently being paid on the Project Facility. In addition, the development of the Project Facility is expected to spur additional development in the downtown sections of the City of Albany.

7. The impact of the proposed Project on existing and proposed businesses and economic development projects in the vicinity:

The impact of the Project is a positive one on the community, as it creates multi-family housing in the area. In addition it will act to reduce the vacancy rate in downtown and increase the number of market rent residential projects in downtown, which is critical to building the market. This development will build investor and bank confidence in the market and will serve to attract additional mid and large scale residential redevelopment projects. The local restaurants and entertainment facilities will benefit from the undertaking of the Project.

8. The amount of private sector investment generated or likely to be generated by the proposed Project:

The investment by the Company will be approximately \$1,468,700.

9. The effect of the proposed Project on the environment:

It is likely that the Project will not have a significant effect on the environment.

10. The likelihood of accomplishing the proposed Project in a timely fashion:

It is anticipated that the Project will be accomplished in a timely fashion.

11. The extent to which the Proposed PILOT Agreement will require the provision of additional services including, but not limited to, additional educational, transportation, police, emergency medical or fire services:

It is not anticipated that the Project will have a tremendous burden upon the educational facilities for any school district within the City of Albany, Albany County. After the completion of the Project, the employment at the Project is not anticipated to generate a substantial burden on the highways of the City of Albany or the surrounding area. All necessary emergency medical and police services are available.

12. Anticipated tax revenues:

The Company has requested a deviation from the Policy in order to pass the real property tax savings on to the proposed tenants at the Project in the form of market lease payments.

13. The extent to which the Proposed PILOT Agreement will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the Project Facility is located:

The benefit is a positive one economically, in that the Project will promote the development of the downtown of the City of Albany.

The Agency will consider the Proposed PILOT Agreement (and the proposed deviation from the Agency's Policy) at the Meeting. The discussion at the Meeting will include a review of (a) the terms of the PILOT Request, (b) other projects where the Agency has approved a deviation from its Policy, and (c) the information contained in this letter and other materials provided by the Company supporting the PILOT Request. Based on the discussion at the Meeting, and the review of any comments received by the Agency with respect to the PILOT Request, the Agency may determine to modify the terms of the PILOT Request.

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

Hon. Gerald D. Jennings, Mayor  
Hon Michael G. Breslin, County Executive  
Dr. Raymond Colucciello, Superintendent  
September 2, 2011  
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If you have any questions or comments regarding the foregoing, please do not hesitate to contact me at the above telephone number.

Sincerely yours,

/s/ Michael J. Yevoli  
Michael J. Yevoli  
Chief Executive Officer

EXHIBIT A

ESTIMATED PILOT PAYMENTS

Year	Existing Real Property Taxes (Without IDA involvement)*	New Pilot Payments (With IDA)	Total (Differences) (Abatement Savings)	Percent of Abatement on Improved Assessment
Current Year	21,631	21,631	0	0
Year 1**	22,280	22,280	0	100%
Year 2	22,949	22,949	0	100%
Year 3	23,637	23,637	0	100%
Year 4	24,346	24,346	0	100%
Year 5	25,077	25,077	0	100%
Year 6	25,829	25,829	0	100%
Year 7	26,604	26,604	0	100%
Year 8	27,402	27,402	0	100%
Year 9	42,405	28,224	14,181	100%
Year 10	58,283	29,071	29,212	100%
Year 11	75,075	39,972	35,103	83.33%
Year 12	92,823	51,502	41,321	66.67%
Year 13	95,608	63,687	31,921	50.00%
Year 14	98,476	76,557	21,919	33.33%
Year 15***	101,430	90,142	11,288	16.67%
Year 16	104,473	104,473	0	0%

\*Assumes 485a PILOT Payment Schedule

\*\*Beginning of proposed PILOT

\*\*\*End of proposed PILOT (Taxes to be paid on full assessment thereafter)

**APPROVING RESOLUTION  
PENTA ON BROADWAY LLC PROJECT**

A regular meeting of City of Albany Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York on September 15, 2011 at 12:15 p.m., local time.

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

**PRESENT:**

Anthony J. Ferrara	Chairman
Willard A. Bruce	Vice Chairman
Susan Pedo	Secretary
Hon. Kathy Sheehan	Treasurer
Martin Daley	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Michael J. Yevoli	CEO - Capitalize Albany Corporation
Megan Daly	Department of Development and Planning
Erik Smith	CFO - Capitalize Albany Corporation
Bradley Chevalier	Economic Development Specialist, Capitalize Albany Corporation
Amy Gardner	Administrative Assistant, Capitalize Albany Corporation
John J. Reilly, Esq.	Corporation Counsel
A. Joseph Scott, III, Esq.	Special Agency Counsel

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

Resolution No. 0911-\_\_

**RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION  
WITH A LEASE/LEASEBACK TRANSACTION FOR A PROJECT FOR PENTA ON  
BROADWAY LLC (THE "COMPANY").**

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

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

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

WHEREAS, Penta on Broadway LLC, a New York limited liability company (the “Company”) presented an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in a parcel of real estate containing approximately .09 acres located at 522-524 Broadway in the City of Albany, Albany County, New York (the “Land”), together with the existing buildings located thereon containing in the aggregate approximately 18,000 square feet of space (the “Facility”), (2) the reconstruction and renovation of the Facility and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment being hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned and operated by the Company and leased to various tenants for residential and commercial uses 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 July 21, 2011 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on August 8, 2011 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 August 8, 2011 on a bulletin board located in the City Hall Rotunda located in the City of Albany, Albany County, New York, (C) caused notice of the Public Hearing to be published on August 8, 2011 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 August 18, 2011, at 12:00 o’clock p.m., local time at the offices of the City of Albany Industrial Development Agency located at 21 Lodge Street in City of Albany, Albany County, New York, and (E) prepared a report of the Public Hearing (the “Report”) which fairly summarizes the views presented at said Public Hearing and shall file the same in the files of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”), and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (the “Regulations”, and collectively with the SEQR Act, “SEQRA”), by resolution adopted by the members of the Agency on September 15, 2011 (the “SEQR Resolution”), the Agency determined (A) that the Project constituted an “Unlisted Action” under SEQRA, (B) that the Project would not have a “significant effect on the

environment” pursuant to SEQRA and, therefore, that no environmental impact statement need be prepared with respect to the Project, and (C) as a consequence of the foregoing, to prepare a negative declaration with respect to the Project; and

WHEREAS, the “financial assistance” (within the meaning of Section 854(14) of the Act) to be granted by the Agency to the Company with respect to the Project consists of the following: exemptions from certain sales and use taxes, real property taxes and real property transfer taxes (collectively, the “Financial Assistance”). The Agency is not granting to the Company an exemption from mortgage recording taxes; and

WHEREAS, the Agency’s Uniform Tax Exemption Policy (the “Policy”) provides a standardized method for the determination of payments in lieu of taxes for a facility similar to the Project Facility. In connection with the Application, the Company made a request to the Agency (the “Pilot Request”) that the Agency deviate from the Policy with respect to Project Facility. In connection with the Pilot Request, the Chief Executive Officer of the Agency sent a notice to the chief executive officers of the “Affected Tax Jurisdictions” (as defined in the Act) pursuant to Section 874(4) of the Act, informing said individuals that the Agency had received the Pilot Request and that the members of the Agency would consider said request at a meeting of the members of the Agency scheduled to be held on September 15, 2011. The Chief Executive Officer of the Agency caused a letter dated September 2, 2011 (the “Pilot Deviation Notice Letter”) to be mailed to the chief executive offices of the Affected Tax Jurisdictions, informing said individuals that the Agency would, at its meeting on September 15, 2011, consider a proposed deviation from the Policy with respect to the payment in lieu of tax agreement to be entered into by the Agency with respect to the Project Facility (the “Payment in Lieu of Tax Agreement”) and the reasons for the proposed deviation; and

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

WHEREAS, the Agency desires to encourage the Company to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of City of Albany, New York by undertaking the Project in 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) if the Company intends to finance the Project with borrowed money, one or more mortgages and any other security documents and related documents (collectively, the "Mortgage") from the Agency and the Company to the Company's lenders with respect to the Project (the "Lender"), which Mortgage will grant liens on and security interests in the Project Facility to secure one or more loans from the Lender to the Company with respect to the Project (collectively, the "Loan"); (F) all building loan and other agreements requested by the Lender in connection with the Loan (collectively with the Mortgage, the "Loan Documents"); and (G) various certificates relating to the Project (the "Closing Documents");

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

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

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

Section 3. The Agency hereby finds and determines that:

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

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

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

(D) It is estimated at the present time that the costs of the planning, development, acquisition, construction, reconstruction and installation of the Project Facility (collectively, the "Project Costs") will be approximately \$1,468,700;

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

(F) 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;

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

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

Section 4. In consequence of the foregoing, the Agency hereby determines to: (A) proceed with the Project; (B) acquire, reconstruct and install the Project Facility; (C) lease the Project Facility to the Company pursuant to the Lease Agreement; (D) enter into the Payment in Lieu of Tax Agreement; (E) secure the Loan by entering into the Loan Documents; and (F) grant the Financial Assistance with respect to the Project.

Section 5. The Agency is hereby authorized (A) to acquire a license in the Licensed Premises pursuant to the License Agreement, (B) to acquire a leasehold interest in the Leased Premises pursuant to the Underlying Lease, (C) to acquire title to the Equipment pursuant to a bill of sale (the "Bill of Sale to Agency") from the Company to the Agency, and (D) to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisitions are hereby approved, ratified and confirmed.

Section 6. The Agency is hereby authorized to acquire, construct and install the Project Facility as described in the Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition, construction and installation are hereby ratified, confirmed and approved.

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

Section 8. (A) The Chairman (or Vice Chairman) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agency Documents, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in the forms thereof as the Chairman (or Vice Chairman) shall approve, the execution thereof by the Chairman (or Vice Chairman) to constitute conclusive evidence of such approval.

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

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

Section 10. This Resolution shall take effect immediately.

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

Anthony J. Ferrara	VOTING	_____
Willard A. Bruce	VOTING	_____
Susan Pedo	VOTING	_____
Hon. Kathy Sheehan	VOTING	_____
Martin Daley	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 September 15, 2011 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 \_\_\_ day of September, 2011.

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

(SEAL)