

**DETERMINATION AND FINDINGS RESOLUTION  
LIBERTY PARK PROJECT**

A regular meeting of City of Albany Industrial Development Agency (the “Agency”) was convened in public session at the office of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York on January 21, 2021 at 12:15 o’clock p.m., local time.

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

**PRESENT:**

Tracy L. Metzger	Chair
Susan Pedo	Vice Chair
Lee E. Eck, Jr.	Secretary
Hon. Darius Shahinfar	Treasurer
Anthony Gaddy	Member
Robert T. Schofield, Esq.	Member
L. Lloyd Stewart	Member

Each of the members present participated in the meeting telephonically pursuant to Executive Order No. 202.1, as supplemented, issued by New York State Governor Andrew M. Cuomo, suspending provisions of Article 7 of the Public Officers Law that require public in-person access to public meetings and authorizing board members to participate in said meetings by conference call or similar service.

**ABSENT:**

None

**THE FOLLOWING PERSONS WERE ALSO PRESENT:**

Sarah Reginelli	Chief Executive Officer
Mark Opalka	Chief Financial Officer
Thomas Conoscenti	Vice President, Capitalize Albany Corporation
Ashley Mohl	Director of Development, Capitalize Albany Corporation
Andrew Corcione	Senior Economic Developer II, Capitalize Albany Corporation
Michael Bohne	Communications & Marketing, Capitalize Albany Corporation
Nora Culhane	Economic Development Specialist, Capitalize Albany Corporation
Virginia Rawlins	Program Assistant, Capitalize Albany Corporation
Amy Lavine, Esq.	Assistant Corporation Counsel
A. Joseph Scott, III, Esq.	Special Agency Counsel

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

Resolution No. \_\_\_\_\_

**RESOLUTION MAKING DETERMINATION AND FINDINGS CONCERNING THE  
PROPOSED ACQUISITION OF CERTAIN PROPERTY LOCATED IN THE CITY OF  
ALBANY, ALBANY COUNTY, NEW YORK.**

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

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

WHEREAS, the Agency is further authorized and empowered under the Act to acquire real property or rights pursuant to the provisions of the New York State Eminent Domain Procedure Law (the “EDPL”); and

WHEREAS, the Agency has received an Application from Capitalize Albany Corporation (the “Corporation”) in connection with the potential undertaking of a project known as the Liberty Park Project (the “Project”), to enable the Corporation to complete the assemblage of real estate necessary to move forward with an economic redevelopment plan involving a mixed use development concept called for by the Capital Region Economic Development Council’s Capital 20.20 regional development strategy; and

WHEREAS, the undertaking of the Liberty Park Project includes the acquisition of certain parcels of property located in the City of Albany, New York (hereinafter collectively referred to as the “Land Parcels”); and

WHEREAS, in connection with the undertaking of the Project, the Corporation has requested the Agency to consider exercising its powers of condemnation in accordance with the provisions of the EDPL to assist the Corporation in acquiring the Land Parcels; and

WHEREAS, pursuant to the authorization contained in a resolution adopted by the members of the Agency on November 19, 2020 (the “Public Hearing Resolution”), the Agency’s staff (A) caused notice of a public hearing of the Agency pursuant to Article 2 of the EDPL (the “Public Hearing”) to be published in the Albany Times Union, a newspaper of general circulation available to the residents of the City of Albany at least ten, but not more than thirty, days before the public hearing in five successive issues in the Times Union beginning November 27, 2020 and ending on December 1, 2020, (C) provided notice of the Public Hearing on November 25, 2020 to all record assessment billing owners and counsel, at least ten, but not more than thirty, days before the Public Hearing by certified mail, return receipt requested, and (D) conducted the Public Hearing on December 9, 2020 at 12:00 o’clock p.m., local time remotely utilizing the Zoom video and teleconference platform rather than in person; and

WHEREAS, at the Public Hearing, the Agency, with the assistance of representatives of the Corporation, outlined the purpose, proposed location of the proposed public project and any other

information it considered pertinent, including maps and descriptions of the property to be acquired and adjacent parcels and provided any person in attendance a reasonable opportunity to present oral or written statements and to submit any other documents concerning the proposed public project; and

WHEREAS, following the Public Hearing, the Agency caused a transcript of the Public Hearing to be made and compiled the application materials and written comments received (collectively referred to as the “Record”); and

WHEREAS, the Agency caused the Record to be made available to the public for examination without cost during normal business hours at the Agency's principal office and at the office of the clerk or register of Albany County, New York in which the property proposed to be acquired is located; 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 January 21, 2021 (the “SEQR Resolution”), the Agency (1) determined that the Project constitutes an “Unlisted Action” (as said quoted term is defined in SEQRA), (2) determined that the Project will not result in a significant adverse impact on the environment, and (3) prepared and issued a negative declaration with respect to the Project; and

WHEREAS, the Agency, pursuant to Article 2 of the EDPL, desires to adopt the determination and findings and brief synopsis attached hereto in connection with the acquisition of the Land Parcels; and

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

Section 1. Based on the entire record of proceedings, including, but not limited to, the Application, information set forth in the EAF, the Negative Declaration, the detailed conceptual plans, the technical reports, the information and materials from the Public Hearing and the Agency’s knowledge of the site and the community, and pursuant to the requirements of the EDPL, the Agency makes the following findings with respect the Project:

A. Pursuant to Article 2 of the EDPL, the form and substance of the determination and findings attached hereto as Schedule “A” is hereby adopted and incorporated herein by reference.

B. Pursuant to Article 2 of the EDPL, the form and substance of the brief synopsis of the determination and findings attached hereto as Schedule “B” is hereby adopted and incorporated herein by reference.

Section 2. The Chair is hereby authorized and directed to take such further action on behalf of the Agency to effectuate the provisions of this Resolution and so as to fulfill the requirements of Article 2 of the EDPL.

Section 3. This Resolution shall take effect immediately.

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

Tracy L. Metzger	VOTING	_____
Susan Pedo	VOTING	_____
Lee E. Eck, Jr.	VOTING	_____
Hon. Darius Shahinfar	VOTING	_____
Anthony Gaddy	VOTING	_____
Robert T. Schofield, Esq.	VOTING	_____
L. Lloyd Stewart	VOTING	_____

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of Columbia County 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 October 23, 2020 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the “Open Meetings Law”) except as modified by Executive Order 202.1, as supplemented, 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, either in-person or appearing telephonically in accordance with Executive Order 202.1, as supplemented, 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 January, 2021.

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

(SEAL)



## **SCHEDULE A**

### **DETERMINATION AND FINDINGS**

#### **EMINENT DOMAIN PROCEDURE LAW SECTION 204 DETERMINATION AND FINDINGS OF THE CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY**

#### **ACQUISITION FOR LIBERTY PARK REDEVELOPMENT/REVITALIZATION PROJECT**

**JANUARY 21, 2021**

### **INTRODUCTION AND BACKGROUND ON EXISTING CONDITIONS**

The 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 collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreational facilities, including educational or cultural facilities and for the purpose of promoting, attracting, and developing economically sound commerce and industry and thereby advance job opportunities, health, general prosperity and economic welfare of the people of the state of New York and to improve recreational opportunities, prosperity and standard of living.

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

The Agency is authorized pursuant to the Act to acquire real property within the City of Albany whether by purchase, condemnation or otherwise. Pursuant to the Act and sections 201-203 of the Eminent Domain Procedure Law of the State of New York (“EDPL”), the Agency held a public hearing on December 9, 2020 in connection with the limited real property Acquisition needed for the proposed Liberty Park Redevelopment/Revitalization Project (the “Project”). The Agency served legal notice on the landowner of record and its counsel by certified mail, return receipt requested on November 25, 2020, and published notice as required by law in the Albany Times Union on November 27, 28, 29, 30 and December 1, 2020. The affidavit of service and the affidavit of publication are included in the public hearing record.

Based on the Agency’s investigation, comments at the public hearing, record material, and the application documents, which are all incorporated herein by reference, the Agency adopts this determination and findings.

The proposed action by the Agency is the acquisition of approximately 0.88 acres (11 tax parcels) of underutilized, stagnant, surface parking lots (the “Subject Property”) in the heart of Downtown Albany and at the center of one of the Capital Region’s most important potential redevelopment sites — Liberty Park — and transferring the property to a limited liability company wholly owned by Capitalize Albany Corporation (“CAC”) for the purpose of pursuing a revitalization/reuse plan for economic development purposes. The 11 tax parcels that make up the Subject Property are as follows: 76.50-1-11, 76.50-1-24, 76.50-1-25, 76.50-1-26, 76.50-1-27, 76.50-1-28, 76.50-1-29, 76.50-1-30, 76.50-1-32, 76.50-1-33, and 76.50-1-35.

CAC has spent more than two years assembling financial resources and adjacent properties to move forward with the Project. During this period, CAC has made previous unsuccessful attempts to pay fair market value for the 0.88 acres via a negotiated transaction. These parcels are the remaining property required to complete the assemblage necessary to move forward with a future redevelopment of the Liberty Park district which could yield over \$100 million in new investment. The proposed parcels to be acquired have been identified in the Capital Region Economic Development Council’s Capital 20.20 regional economic development strategy and outlined in the 2017 Empire State Development Downtown Albany Planning and Feasibility Study as summarized in the Concept Plan Report. CAC is requesting that the Agency use eminent domain to acquire the land at issue and transfer the land to CAC, through its subsidiary, so CAC can move forward with the planning and public review and input process for its proposed redevelopment Project.

The Liberty Park District Redevelopment/Revitalization Project location is bounded by Broadway to the east, Hudson Avenue to the north, Hamilton Street to the south and Green Street to the west (the “Site”). The Site is approximately 8 acres and CAC has control of the Site, with the exception of the Subject Property, which is owned by a private land owner in fee. The Subject Property’s central location within the Site makes it essential for the redevelopment of the Site.

An existing conditions assessment was conducted for the Site, finding that the Site consists mainly of surface parking lots in significant disrepair, with poor pavement conditions, stagnant uses, and long-vacant buildings, which have been flagged as “unsafe” for emergency responders to enter. The Site as a whole generally suffers from economic underdevelopment.

As noted in the application materials and the CHA Consulting, Inc. (“CHA”) report submitted therewith, the Site has been referred to as “The Dead Zone” and press reports of the Site have noted that it “has been the most debated, studied and passed over development site in Downtown Albany for more than 20 years.” Another press account noted that if you “[l]ook around . . . you’ll see busted sidewalks, sagging chain link fences, scraggly weeds and hundreds of cars.” The Site has been referred to as “the parking lot district” or “the former convention center site” by various media sources. As noted in the CHA report, press descriptions of the Site confirm the existing conditions assessment of blighted, stagnant, underutilized, and nuisance property.

Redevelopment of the Site has proved challenging. As noted in the CHA report:

Mothballed and no longer needed by the Albany Convention Center Authority as surplus property, the Site was put out to Request for Proposals by New York State in 2015. No legitimate proposals were received from the development community,



due in large part to the challenges of obtaining full site control. Over the past 10 years, a lack of investment and decaying, underutilized condition have led the Site (and immediately surrounding areas) to become significantly blighted, standing in stark contrast to the remainder of the City's vibrant Downtown core which is experiencing tremendous growth and momentum with market rate downtown residential and new retail filling vacant storefronts. While the rest of Downtown strengthens, this Site continues to deteriorate and negatively impact surrounding properties.

As noted above, site control has been a critical obstacle toward redevelopment. CAC has obtained control of the entire Site, except for the Subject Property.

By resolution on November 19, 2020, the Agency duly authorized the initiation of procedures to acquire the Subject Property under the EDPL.

### **THE PUBLIC USE, BENEFIT OR PURPOSE TO BE SERVED BY THE PROPOSED PUBLIC PROJECT.**

It is the policy of the State of New York to promote the economic welfare and prosperity of its inhabitants and to actively promote, attract, encourage and develop economically sound commerce and industry.

As set forth above, the Site is and continues to be in a state of blight, disrepair, nuisance, underutilization, and underdevelopment. The Subject Property is privately owned land that is leased to CAC. CAC is able to undertake any lawful use at the Subject Property under its lease. The Site currently consists of surface parking lots in significant disrepair, with poor pavement conditions, stagnant uses and long-vacant buildings which have been flagged as "unsafe" for emergency responders to enter. A selection of press accounts from the CHA report illustrates the conditions:

- "A commercial dead zone of parking lots, decrepit buildings and the former Adirondack Trailways bus station in downtown Albany" (Times Union; April 12, 2018)
- "... one of downtown's largest eyesores" (Times Union; August 7, 2018)
- "Redevelopment of the site became even more of an imperative after one of the buildings bordering it, 6 E-Comm Square, partially collapsed last year and had to be torn down." (Times Union; November 25, 2019)
- "... developing the large site on the southern end of downtown -- AKA, The Parking Lot District -- that sat underused for years, and without purpose since the convention center project moved up the hill." (All Over Albany; September 14, 2017)
- "This issue will be of keen interest to the city of Albany. Because right now it has what's essentially an 8-acre dead spot in its downtown, largely untaxable, with very little direct control over what might happen there." (All Over Albany; September 14, 2017)

- “...the eight-acre Liberty Park parcel - one of the most historic - and longest suffering - pieces commercial land in downtown Albany.” (Times Union; October 27, 2017)

The Subject Property specifically is in a state of blight, disrepair, nuisance, underutilization, and underdevelopment. The portion of the Subject Property in Block 4 of the Site is currently used as a paved surface parking lot, with the pavement in poor repair with wild vegetation growing and fencing in disrepair. Garbage, litter, and other debris can be seen at the Site and on the Subject Property. Photographs from the CHA report document the conditions. *See* Figures 11-13 of the CHA report, which is incorporated herein by reference. The portion of the Subject Property that constitutes Block 6 of the Site suffers from the same economic underdevelopment and stagnation. Similar poor pavement conditions are evident. *See* Figure 19 of the CHA report. Further, Block 6 is in a central location of the Site and presents a significant impediment to redevelopment and revitalization of the area as a whole. The portion of the Subject Property located in Block 7 of the Site consists of parking on deteriorating pavement.

Considerable planning and effort has been put in place to foster economic development, revitalization, and adaptive reuse at the Site. In August 2017, Empire State Development Corporation prepared the Downtown Albany Planning and Feasibility Study, which addressed the Site. Similarly, the City’s Comprehensive Plan, Albany 2030, Downtown’s economic development strategy, Impact Downtown Albany, and the Capital Region’s strategic plan, Capital 20.20 have all consistently identified the Site as a location within Downtown Albany of the highest priority for redevelopment. CHA’s Concept Plan Report for the Liberty Park District Conceptual Redevelopment is incorporated herein by reference. These economic development efforts to address underutilization, blight, and underdevelopment are unquestionably a public use, benefit, and purpose.

The Agency finds that the Subject Property is economically underutilized and underdeveloped, blighted, and stagnant and that its acquisition in support of redevelopment, reuse, and revitalization is a public use, benefit and purpose. The Subject Property’s central location within the Site make it critical to redevelopment efforts. Condemnation of the Subject Property will complete the Site control necessary to further the economic redevelopment/adaptive reuse concepts that have been evaluated for the Site. Redevelopment of the Site will inure to the benefit of the public by securing investment in the Site, creating jobs, increasing the tax base, and encouraging further economic development.

#### **THE APPROXIMATE LOCATION FOR THE PROPOSED PUBLIC PROJECT AND THE REASONS FOR THE SELECTION OF THIS LOCATION.**

The Site for the Project is located in the City of Albany, is approximately 8 acres in total area, and is made up of 7 blocks. The Site is currently bounded by Broadway to the east, Hudson Avenue to the North, Hamilton Street to the south and Green Street to the west. The Subject Property represents a portion of the Site and is shown on Figure 1 below in red and on Figure 2 below with markers identifying the specific parcels to be acquired.



Figure 1

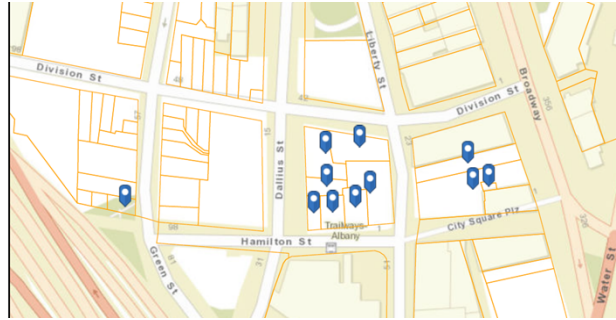


Figure 2

This location has been selected because it is a blighted, stagnant, underutilized, underdeveloped private property that has become a detriment to the area and surrounding properties. The Site has presented challenges to redevelopment and has not kept pace with economic progress in other areas of the City. As discussed above, this area has been noted as one of the highest priorities for redevelopment. Other areas of the City have progressed while this area has remained in a state of blight and underdevelopment. Accordingly, alternative locations to areas of lesser priority and not in as severe a state of blight would not be appropriate.

The Subject Property is necessary for acquisition because of its central location at the Site. Appropriate redevelopment and adaptive reuse would be frustrated if the Subject Property were not included in the redevelopment effort. As noted above in Figure 1, the entirety of Block 6, a substantial portion of Block 7, and a critical portion of Block 4 are part of the Subject Property. Proceeding without the Subject Property would severely limit the utility and benefit to be realized by redevelopment the Site as a whole. The Agency specifically finds acquisition necessary to properly address the blighted condition in the area.

**THE GENERAL EFFECT OF THE PROPOSED PROJECT ON THE ENVIRONMENT AND RESIDENTS OF THE LOCALITY.**

The Agency has issued a negative declaration in connection with the acquisition of the Subject Property and hereby incorporates its determination herein by reference. Thus, there will be no negative general effect on the environment.

It is anticipated that the acquisition of the Subject Property will have, in general, a positive effect on City residents. The acquisition is designed to address blight, stagnation, underutilization, underdevelopment, and nuisance conditions. The current properties are kept in a poor condition. Surrounding properties are negatively affected. Addressing blight will be a benefit to the community.

**OTHER FACTORS THAT THE AGENCY CONSIDERS RELEVANT**

Moving forward with the acquisition would further significant community plans and goals and will attract significant investment and job growth to the community. See August 2017, Empire State Development Corporation prepared the Downtown Albany Planning and Feasibility Study; Comprehensive Plan, Albany 2030; Impact Downtown Albany; the Capital Region’s strategic plan, Capital 20.20.

During the public hearing, counsel for the fee owner of the Subject Property asserted that condemnation is not permitted by the prior public use doctrine. For the reasons set forth herein, the Agency rejects such contention. As a first matter, the Agency finds that the fee owner of the Subject Property is a private limited liability company and does not hold the Subject Property under a “delegated, general power of eminent domain.” See *Bd. of Ed. of Union Free Sch. Dist. No 2 of Town of Ossining & Mt. Pleasant v. Pace Coll.*, 27 A.D.2d 87, 90 (2d Dep’t 1966). The Agency further finds that on August 15, 1988, the fee owner’s predecessor executed a lease agreement with Broadway Parking Company, a New York General Partnership, for a term of fifty years. Pursuant to the terms of the lease, the lessee may use the Subject Property “for parking and any other lawful purpose.” At the end of the fifty-year term, the right to possession reverts to the fee owner.

The Agency finds that on August 24, 2010, LPD LLC, a successor by conversion to Broadway Parking Company, assigned the lease to Albany Convention Center Authority, after which the lease rights were acquired by CAC through its wholly-owned subsidiary Liberty Square Development LLC. In fact, CAC moved forward to acquire this interest not to continue the parking use, but to facilitate its economic redevelopment Project and removal of blight/economic underutilization. While CAC has continued the parking use currently, it is not obligated to continue with such use and CAC has made it known that this use will terminate upon implementation of the redevelopment of the property. CAC may revoke this permission at any time and may exclude the public. The lease explicitly permits such revocation. Thus, the benefits enjoyed by the public from parking spring from CAC’s own voluntary action, and not from any public trust impressed upon it by the State. And, further, upon expiration of the lease, the property would revert back to the fee owner. Finally, as a private corporation, the fee owner lacks standing to invoke the doctrine of prior public use. See *Pace Coll.*, 27 A.D.2d at 91-92 (holding that a private educational institution could not invoke the doctrine of prior public use in opposition to a condemnation action).

## **CONCLUSION**

The Agency finds that there is a public use, benefit, and purpose for the acquisition of the Subject Property and determines to proceed with acquisition pursuant to the EDPL.

## **SCHEDULE B**

### **SYNOPSIS**

#### **EMINENT DOMAIN PROCEDURE LAW SECTION 204 SYNOPSIS OF DETERMINATION AND FINDINGS OF THE CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY**

#### **ACQUISITION FOR LIBERTY PARK REDEVELOPMENT/REVITALIZATION PROJECT**

JANUARY 21, 2021

#### **I. THE PUBLIC USE, BENEFIT OR PURPOSE TO BE SERVED BY THE PROPOSED PUBLIC PROJECT.**

The Liberty Park District site, as described below, consists mainly of surface parking lots in significant disrepair, with poor pavement conditions, stagnant uses, and long-vacant buildings, which have been flagged as “unsafe” for emergency responders to enter. The site as a whole generally suffers from economic underdevelopment. Redevelopment has been prevented by significant obstacles. The site continues to deteriorate and negatively impact surrounding properties. The site, including the parcels to be acquired, continues to be in a state of blight, disrepair, nuisance, underutilization, and underdevelopment.

Considerable planning and effort has been put in place to foster economic development, revitalization, and adaptive reuse at the Site. The Agency finds that the parcels to be acquired are economically underutilized and underdeveloped, blighted, and stagnant and that their acquisition in support of redevelopment, reuse, and revitalization is a public use, benefit and purpose. Condemnation of the parcels will complete the site control necessary to further the economic redevelopment/adaptive reuse concepts that have been evaluated for the site. Redevelopment of the site will inure to the benefit of the public by securing investment in the site, creating jobs, increasing the tax base, and encouraging further economic development.

#### **II. THE APPROXIMATE LOCATION FOR THE PROPOSED PUBLIC PROJECT AND THE REASONS FOR THE SELECTION OF THIS LOCATION.**

The Site for the Project is located in the City of Albany, is approximately 8 acres in total area, and is made up of 7 blocks. The Site is currently bounded by Broadway to the east, Hudson Avenue to the North, Hamilton Street to the south and Green Street to the west. The parcels proposed to be acquired are as follows: 76.50-1-11, 76.50-1-24, 76.50-1-25, 76.50-1-26, 76.50-1-27, 76.50-1-28, 76.50-1-29, 76.50-1-30, 76.50-1-32, 76.50-1-33, and 76.50-1-35.

This location has been selected because it is a blighted, stagnant, underutilized, underdeveloped property that has become a detriment to the area and surrounding properties. This area has been noted as one of the highest priorities for redevelopment. Other areas of the City have progressed

while this area has remained in a state of blight and underdevelopment. Accordingly, alternative locations of lesser priority and not in as severe a state of blight would not be appropriate.

The parcels to be acquired were selected for acquisition because of their central location. Appropriate redevelopment and adaptive reuse would be frustrated if the parcels were not included in the redevelopment effort.

### **III. THE GENERAL EFFECT OF THE PROPOSED PROJECT ON THE ENVIRONMENT AND RESIDENTS OF THE LOCALITY.**

The Agency has issued a negative declaration under the New York State Environmental Quality Review Act (“SEQRA”) finding there will not be a significant adverse impact on the environment. Thus, there will be no negative general effect on the environment. Effects on the residents of the locality from addressing the blighted situation are found to be positive, including economic development, job growth, and increases to the tax base.

### **IV. OTHER FACTORS THAT THE AGENCY CONSIDERS RELEVANT**

The acquisition is consistent with community plans and goals. The doctrine of prior public use does not prohibit the condemnation.

### **V. CONCLUSION**

The Agency finds that there is a public use, benefit, and purpose for the acquisition of the Subject Property and determines to proceed with acquisition pursuant to the EDPL.

**Copies of the determination and findings will be forwarded by written request, without cost. Under EDPL § 207, there are thirty days from the completion of the Agency’s newspaper publication requirement to seek judicial review of the Agency’s determination and findings. Under EDPL §§ 207 and 208, the exclusive venue for judicial review of the Agency’s determination and findings is the Supreme Court, Appellate Division, Third Judicial Department.**

**SEQRA RESOLUTION – UNLISTED ACTION  
LIBERTY PARK PROJECT**

A regular meeting of City of Albany Industrial Development Agency (the “Agency”) was convened in public session at the office of the Agency located at 21 Lodge Street in the City of Albany, Albany County, New York on January 21, 2021 at 12:15 o’clock p.m., local time.

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

**PRESENT:**

Tracy L. Metzger	Chair
Susan Pedo	Vice Chair
Lee E. Eck, Jr.	Secretary
Hon. Darius Shahinfar	Treasurer
Anthony Gaddy	Member
Robert T. Schofield, Esq.	Member
L. Lloyd Stewart	Member

Each of the members present participated in the meeting telephonically pursuant to Executive Order No. 202.1, as supplemented, issued by New York State Governor Andrew M. Cuomo, suspending provisions of Article 7 of the Public Officers Law that require public in-person access to public meetings and authorizing board members to participate in said meetings by conference call or similar service.

**ABSENT:**

None

**THE FOLLOWING PERSONS WERE ALSO PRESENT:**

Sarah Reginelli	Chief Executive Officer
Mark Opalka	Chief Financial Officer
Thomas Conoscenti	Vice President, Capitalize Albany Corporation
Ashley Mohl	Director of Development, Capitalize Albany Corporation
Andrew Corcione	Senior Economic Developer II, Capitalize Albany Corporation
Michael Bohne	Communications & Marketing, Capitalize Albany Corporation
Nora Culhane	Economic Development Specialist, Capitalize Albany Corporation
Virginia Rawlins	Program Assistant, Capitalize Albany Corporation
Amy Lavine, Esq.	Assistant Corporation Counsel
A. Joseph Scott, III, Esq.	Special Agency Counsel

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

Resolution No. \_\_\_\_

RESOLUTION DETERMINING THAT ACTION TO UNDERTAKE THE  
ACQUISITION OF CERTAIN PARCELS OF PROPERTY LOCATED IN THE CITY  
OF ALBANY, NEW YORK FOR THE LIBERTY PARK PROJECT WILL NOT HAVE  
A SIGNIFICANT ADVERSE IMPACT ON THE ENVIRONMENT.

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

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

WHEREAS, the Agency has received an Application from Capitalize Albany Corporation (the “Corporation”) in connection with the potential undertaking of a project known as the Liberty Park Project (the “Project”), to enable the Corporation to complete the assemblage of real estate necessary to move forward with an economic redevelopment plan involving a mixed use development concept called for by the Capital Region Economic Development Council’s Capital 20.20 regional development strategy; and

WHEREAS, the undertaking of the Liberty Park Project includes the acquisition of certain parcels of property located in the City of Albany, New York (hereinafter collectively referred to as the “Land Parcels”); and

WHEREAS, in connection with the undertaking of the Project, the Corporation has requested the Agency to consider exercising its powers of condemnation in accordance with the provisions of the New York State Eminent Domain Procedure Law (the “EDPL”) to assist the Corporation in acquiring the Land Parcels; and

WHEREAS, pursuant to the authorization contained in a resolution adopted by the members of the Agency on November 19, 2020 (the “Public Hearing Resolution”), the Agency’s staff (A) caused notice of a public hearing of the Agency pursuant to Article 2 of the EDPL (the “Public Hearing”) to be published in the Albany Times Union, a newspaper of general circulation available to the residents of the City of Albany at least ten, but not more than thirty, days before the public hearing in five successive issues in the Times Union beginning November 27, 2020 and ending on December 1, 2020, (C) provided notice of the Public Hearing on November 25, 2020 to all record assessment billing owners and counsel, at least ten, but not more than thirty, days before the Public Hearing by certified mail, return receipt requested, and (D) conducted the Public Hearing on December 9, 2020 at 12:00 o’clock p.m., local time remotely utilizing the Zoom video and teleconference platform rather than in person; and

WHEREAS, at the Public Hearing, the Agency, with the assistance of representatives of the Corporation, outlined the purpose, proposed location of the proposed public project and any other information it considered pertinent, including maps and descriptions of the property to be acquired and adjacent parcels and provided any person in attendance a reasonable opportunity to present oral or written statements and to submit any other documents concerning the proposed public project; and



WHEREAS, following the Public Hearing, the Agency caused a transcript of the Public Hearing to be made and compiled the application materials and written comments received (collectively referred to as the “Public Hearing Record”); 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, being 6 NYCRR Part 617, as amended (the “Regulations” and 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 making a final determination as to whether the Project may have a significant effect upon the environment, the Corporation 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 an earlier meeting and a copy of which is on file at the office of the Agency; and

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

WHEREAS, the Project is not 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 result in a significant adverse impact 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 Public Hearing Record, the EAF and all information submitted to the Agency (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 consists of the acquisition by the Agency of approximately 0.88 acres (11 tax parcels) of underutilized, underdeveloped, blighted, and stagnant surface parking lots in the heart of Downtown Albany and at the center of one of the Capital Region’s most important potential redevelopment sites — Liberty Park — and transferring that land to Liberty Square Development LLC (“LLC”), a wholly-owned subsidiary of the Corporation, for economic development opportunities.

B. No potentially significant adverse 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.

B. The Project will result in no significant adverse environmental impacts and, therefore, the Agency hereby determines that the Project will not have a significant adverse impact on the environment, and the Agency will not require the preparation of an environmental impact statement with respect to the Project.

C. As a consequence of the foregoing, the Agency has decided to prepare and issue a negative declaration with respect to the Project for the reasons set forth in Section 3 below.

Section 3. The Agency hereby issues the negative declaration attached hereto as Schedule A, and to cause copies of said negative declaration to be (A) filed in the main office of the Agency and (B) distributed to the Corporation. The Agency’s rationale is as set forth in the negative declaration attached as Schedule A.

Section 4. This Resolution shall take effect immediately.

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

Tracy L. Metzger	VOTING	_____
Susan Pedo	VOTING	_____
Lee E. Eck, Jr.	VOTING	_____
Hon. Darius Shahinfar	VOTING	_____
Anthony Gaddy	VOTING	_____
Robert T. Schofield, Esq.	VOTING	_____
L. Lloyd Stewart	VOTING	_____

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of City of Albany Industrial Development Agency (the “Agency”), do hereby certify that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on January 21, 2021 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”) except as modified by Executive Order 202.1, as supplemented, 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, either in-person or appearing telephonically in accordance with Executive Order 202.1, as supplemented, 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 January, 2021.

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

(SEAL)

**Schedule A**

**NEGATIVE DECLARATION  
Determination of Non-Significance**

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

**Date:** January 21, 2021

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act or SEQRA) of the Environmental Conservation Law.

The City of Albany Industrial Development Agency (the “Agency”) has reviewed the proposed action and determined that it will not result in a significant adverse environmental impact and that a Draft Environmental Impact Statement will not be prepared.

**Name of Action:** Acquisition for Liberty Park Redevelopment/Revitalization Project (the “Action”).

**Location of Project Site:**

<b><u>No.</u></b>	<b><u>Address</u></b>	<b><u>Tax Map Number</u></b>
1.	330 Broadway Rear, City of Albany	76.50-1-35
2.	338 Broadway, City of Albany	76.50-1-33
3.	342 Broadway, City of Albany	76.50-1-32
4.	14 Dallius Street, City of Albany	76.50-1-24
5.	22 Dallius Street, City of Albany	76.50-1-25
6.	28 Division Street, City of Albany	76.50-1-30
7.	31 Hamilton Street, City of Albany	76.50-1-28
8.	37 Hamilton Street, City of Albany	76.50-1-27
9.	39 Hamilton Street, City of Albany	76.50-1-26
10.	23 Liberty Street, City of Albany	76.50-1-29
11.	69 Green Street, City of Albany	76.50-1-11

Maps are included with the application and are set forth in the record.

**SEQRA Status:** Unlisted.

**Description of Action:** Liberty Square Development LLC (“LLC”) is a wholly-owned subsidiary of Capitalize Albany Corporation (“CAC”), a 501c-3 and local public authority. The proposed action at issue is the acquisition by the Agency of approximately 0.88 acres (11 tax parcels) of underutilized, underdeveloped, blighted, and stagnant surface parking lots in the heart of Downtown Albany and at the center of one of the Capital Region’s most important potential redevelopment sites — Liberty Park — and transferring that land to the LLC for economic development opportunities. CAC has spent more than two years assembling financial resources and adjacent properties. During this period, CAC has made previous unsuccessful attempts to

pay fair market value for the 0.88 acres via a negotiated transaction. These parcels are the remaining property required to complete the assemblage necessary to move forward with a future redevelopment of the Liberty Park district which could yield over \$100 million in new investment. The proposed parcels to be acquired have been identified in the Capital Region Economic Development Council's Capital 20.20 regional economic development strategy and outlined in the 2017 Empire State Development Downtown Albany Planning and Feasibility Study as summarized in the Concept Plan Report. CAC is requesting that the Agency use eminent domain to acquire the land at issue and transfer the land to CAC, through its subsidiary LLC, so CAC can move forward with the planning and public review and input process for redevelopment.

### **Reasons Supporting this Determination:**

As a first matter, the Agency has thoughtfully considered how to appropriately review the Action under SEQRA. The Action before the Agency is the acquisition of parcels to complete the assemblage necessary to allow redevelopment of the Liberty Park district site to move forward. The Agency recognizes that the Action is in furtherance of a redevelopment/adaptive reuse effort for the entire Liberty Park Site. Indeed, the entire purpose behind the Action is to assemble the parcels necessary to accommodate the broader redevelopment effort. The Agency has evaluated the concept of segmentation and whether evaluation of the impacts of the condemnation on their own would constitute impermissible segmentation. The Agency determines it would not.

Segmentation is defined by the SEQRA regulations as “the division of the environmental review of an action such that various activities or stages are addressed . . . as though they were independent, unrelated activities, needing individual determinations of significance.” 6 N.Y.C.R.R. § 617.2(ah). Impermissible segmentation occurs where segmentation is “undertaken for the purpose of circumventing the detailed review called for under SEQRA.” *Adirondack Historical Ass’n v. Village of Lake Placid/Lake Placid Village, Inc.* 161 A.D.3d 1256, 1257 (3d Dep’t 2018). In other words, impermissible segmentation is where “a project with potentially significant environmental effects [is] split into two or more smaller projects, each falling below the threshold requiring full-blown review.” *Long Island Pine Barrens Soc., Inc. v. Planning Bd. of Town of Brookhaven*, 204 A.D.2d 548, 550 (2d Dep’t 1994). An agency faced with a concrete action or determination need not evaluate “speculative or hypothetical” impacts from a larger project that has yet to be proposed or formulated. *Village of Tarrytown v. Planning Bd. of Village of Sleepy Hollow*, 292 A.D.2d 617, 620 (2d Dep’t 2002). In addition, in the context of condemnation proceedings, where “no specific future use has been identified prior to the acquisition of . . . property . . . [the agency is] not required to consider the environmental impact of anything beyond the acquisition.” *Court Street Development Project, LLC v. Utica Urban Renewal Agency*, 2020 WL 6688830, \*2 (4th Dep’t 2020).

The redevelopment efforts at this point are speculative and hypothetical because they are dependent upon future steps and proposals that have yet to be developed. Indeed, the specifics of the proposal will be contingent on (1) developers and investors in the redevelopment effort; (2) land use and zoning regulations, decisions, and considerations; and (3) future market demand. The uses for the site have yet to be proposed or confirmed and impacts will vary based upon what is specifically proposed for the site. While different proposals and concept plans have been

studied and evaluated, nothing has been specifically proposed in a manner that would permit the Agency to evaluate it under SEQRA. Thus, any proposed redevelopment effort is, at this time, speculative and hypothetical and would not constitute impermissible segmentation.

In addition, segmentation is not prohibited in all circumstances. Assuming that the reuse/redevelopment concept is not sufficiently speculative or hypothetical for SEQRA review purposes, the Agency finds that a segmented review — of only the acquisition of the parcels — would be appropriate here pursuant to 6 N.Y.C.R.R. § 617.3(g). The Agency finds that the circumstances here warrant only consideration of the acquisition and that doing so would clearly be no less protective of the environment. *Adirondack Historical Ass’n*, 161 A.D.3d at 1258 (“Inasmuch as the Village Board set forth the reasons supporting segmentation and demonstrated that such review is clearly no less protective of the environment, we are satisfied that impermissible segmented review did not occur here.” (internal quotations and citations omitted)). As noted above, the specifics of the redevelopment have yet to be proposed. Only upon acquisition of the parcels, which would complete the assemblage required, may CAC move forward with the planning and public review process for redevelopment. At this time, further identification of specifics has not been possible without full site control. This lack of specifics prevents the Agency from considering the full redevelopment and reuse of the entire site in a meaningful way. Depending on what is specifically proposed, impacts will vary in type and degree. Reviewing only the condemnation at this point does not in any way shield future development from environmental review. Once a specific development proposal is contemplated for the reuse/redevelopment, discretionary approvals will be required, triggering SEQRA review. The fact that the Agency had considered the environmental impacts of the acquisition will not in any way limit the full review of the redevelopment project at that time. When a specific proposal is developed, specific environmental impacts will be evaluated.

The Agency has identified the relevant areas of environmental concern and has taken a hard look at each of the identified areas as required by SEQRA. The Agency compared the proposed Action with the criteria for determining significance identified in 6 NYCRR § 617.7(c)(1) and in accordance with 6 NYCRR § 617.7(c)(2) and (3). The Agency also reviewed Part 1 of the Environmental Assessment Form (“EAF”) and other information in the record and evaluated the questions set forth in Part 2 of the EAF. The Agency duly completed Parts 2 and 3 of the EAF. As indicated below in the discussion of each criterion specified in 6 NYCRR § 617.7(c)(1), the Action will not have a significant adverse impact on the environment.

The Agency hereby incorporated the public hearing record by reference as if fully set forth herein, including the CHA Consulting, Inc. report submitted with the application.

**(i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;**

**a. Traffic Impacts**

The Action will not have a significant adverse impact upon traffic or transportation. The parcels to be acquired are currently used for surface parking. Loss of this parking for eventual conversion to other uses will not have a significant adverse impact on traffic. Once a specific use is proposed, the traffic impacts will be evaluated under SEQRA.

**b. Noise Impacts**

The Action will not have a significant adverse impact upon noise. The Action involves only the acquisition of the identified parcels. To the extent the current parking uses cease, noise may be expected to be reduced until such time as the property is redeveloped with a specific proposal. At that time, noise impacts from specific contemplated uses will be evaluated under SEQRA.

**b. Air Quality Impacts**

The Action will not have a significant adverse impact upon air quality.

**c. Wetland Impacts**

The Action will not have a significant adverse impact upon wetlands. The location of the Action does not contain any wetlands or other waterbodies regulated by a federal, state, or local agency. Nor are there any adjacent properties with wetlands or waterbodies. The Action would not physically alter, or encroach into, any existing wetland or waterbody.

**d. Erosion, Flooding and Drainage Impacts**

The parcels to be acquired are currently used for surface parking and consist of impervious surfaces. There will be no changes to erosion, flooding, and drainage impacts as the result of the Action.

**e. Solid Waste Production**

There will be no such impacts.

**(ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;**

The Action will not result in the destruction of large quantities of vegetation or fauna. Nor will there be a substantial interference with the movement of any resident or migratory fish or

wildlife species or impacts on a significant habitat area. The parcels are developed and in a state of underutilization and blight. There are no habitat areas and no vegetation, other than wild uncontrolled weeds. There will be no substantial adverse impacts on a threatened or endangered species of animal or plant or habitat. There will be no other significant adverse impacts to natural resources.

**(iii) the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to subdivision 617.14(g) of this Part;**

The site of the proposed Action is not located in nor does it adjoin a state listed Critical Environmental Area. Thus, there will be no significant adverse impacts to any Critical Environmental Area as a result of this Action.

**(iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;**

The Action is consistent with the community's plans and goals as officially approved or adopted. While specific uses have not been identified, the concept of redevelopment itself is a direct community goal. Considerable planning and effort has been put in place to foster economic development, revitalization, and adaptive reuse at the Site. In August 2017, Empire State Development Corporation prepared the Downtown Albany Planning and Feasibility Study, which addressed the Site. Similarly, the City's Comprehensive Plan, Albany 2030, Downtown's economic development strategy, Impact Downtown Albany, and the Capital Region's strategic plan, Capital 20.20 have all consistently identified the Site as a location within Downtown Albany of the highest priority for redevelopment. The Agency's acquisition of the parcels would not conflict with these goals; rather, they would further them.

**(v) the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;**

The Action only contemplates the acquisition of the parcels and thus does not present a significant adverse impact on important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.

The overall site of the redevelopment proposal lies within two districts listed on the National Historic Register of Historic Places: The Downtown Albany Historic District and the Fort Orange Archaeological Site. The Fort Orange Archaeological Site is also listed as a National Historic Landmark. The Van Ostrande-Radliff House at 48 Hudson Avenue within the Liberty Park District Boundary is the oldest building in Albany, dating back to 1728, and is included on the National Register of Historic Places. These two districts and 48 Hudson hold local historic designations as well. Also located within the site is Liberty Park, which is reported to be the oldest public green space in the Northeast.



During the SEQRA review of a prior project contemplated for the site, the services of Hartgen Archaeological Associates were engaged to undertake a Phase 1A Literature review and Archaeological Sensitivity Assessment of the area consistent with the Liberty Park District redevelopment site. This was a comprehensive document detailing the historical features of the area from Native American use to present day. The Phase 1A report states “The [area] has the potential to supply important historical and archeological data that can inform us about the evolution of the City of Albany from the precontact period, through the Dutch and English regimes, and culminate with 19<sup>th</sup> century development and 20<sup>th</sup>-century decline.” It also explains that it is very likely that the area may hold a wide variety of National Register eligible archaeological resources. Given the site’s varied historical uses, it has been disturbed many times. As such, the report as well as New York State Office of Parks, Recreation, and Historic Preservation (“OPRHP”), recommended further field reconnaissance (Phase 1B survey) in order to identify, preserve and protect as many resources as possible.

The Phase 1B survey consisted of the excavation of 22 trenches throughout the area and identified six archaeological sites for further evaluation, depending on the proposed development in the area. It was determined that given the extensive archaeological resources identified and desire to minimize costs and limit disturbance to the downtown, further evaluation would best occur during construction. In 2012, an Archaeological Data Recovery and Construction Monitoring Plan (“DRP”) was developed, detailing how archaeological resources would be evaluated during construction. OPRHP reviewed this plan and recommended full implementation of the plan to address any concerns with archeological resources. In addition to following the DRP, the SEQRA findings from the previous project, indicate that the Van Ostrande-Radliff House (48 Hudson Avenue) needed to be preserved and incorporated into the design of the project to maximum extent practicable. The findings also explain that if during construction, archaeological resources cannot be removed, such as cellar foundations and cisterns, they are to be preserved or built over whenever possible. Most importantly, whatever is learned about the resources of the site shall be catalogued and documented.

Given that potential impacts here will be highly dependent on the proposed redevelopment plan and construction of the same, the Agency’s approach to the SEQRA (described above) review is appropriate. The specifics of redevelopment on the site are conceptual only. The acquisition of the parcels here would not involve any changes to land use at this time, only a change in ownership and control. The remainder of the Liberty Park redevelopment site is already under the control of CAC. In addition, upon completion of the planning and public review and input phase after acquisition of the parcels, the specific redevelopment proposal will be subject to further discretionary approvals which will require SEQRA review on the specific project proposed. At that time, these impacts will be evaluated as against the specific cultural resources and construction plans. Such a review will be no less protective of the environment.

**(vi) a major change in the use of either the quantity or type of energy;**

The Action will not result in a major change in the quantity or type of energy used. As noted above, the acquisition furthers the economic redevelopment effort for the Liberty Park District.

The impacts from such change in use will be evaluated after the planning, public review and input process is completed and before any discretionary approvals may be granted.

**(vii) the creation of a hazard to human health;**

There will be no such impacts.

**(viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;**

The Action will not result in any such impacts. The acquisition of the parcels will not create a substantial change in use in the near-term. However, as noted above, the acquisition furthers the economic redevelopment effort for the Liberty Park District. The impacts from such change in use will be evaluated after the planning, public review and input process is completed and before any discretionary approvals may be granted.

**(ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;**

There will be no such impacts. The acquisition of the parcels will not encourage or attract a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action, in the near-term. However, as noted above, the acquisition furthers the economic redevelopment effort for the Liberty Park District. The impacts from such redevelopment effort will be evaluated after the planning, public review and input process is completed and before any discretionary approvals may be granted.

**(x) the creation of a material demand for other actions that would result in one of the above consequences;**

There will be no such impacts. The Agency incorporates its rationale for conducting the SEQRA review for this Action herein.

**(xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or**

There will be no such impacts. The Agency incorporates its rationale for conducting the SEQRA review for this Action herein.

**(xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.**

There will be no such impacts. The Agency incorporates its rationale for conducting the SEQRA review for this Action herein.

**For Further Information:**

Contact Person: Tracy L. Metzger  
Chair, City of Albany Industrial Development Agency

Address: 21 Lodge Street  
Albany, New York 12207

Telephone Number: (518) 434-2532

E-mail Address: [info@albanyida.com](mailto:info@albanyida.com)

Project:

Date:

***Short Environmental Assessment Form  
Part 2 - Impact Assessment***

**Part 2 is to be completed by the Lead Agency.**

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept “Have my responses been reasonable considering the scale and context of the proposed action?”

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Project:

Date:

### **Short Environmental Assessment Form Part 3 Determination of Significance**

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

SEE NEGATIVE DECLARATION, WHICH IS INCORPORATED HEREIN BY REFERENCE.

- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

City of Albany Industrial Development Agency  
 \_\_\_\_\_  
 Name of Lead Agency

January \_\_\_\_, 2021  
 \_\_\_\_\_  
 Date

Tracy L. Metzger  
 \_\_\_\_\_  
 Print or Type Name of Responsible Officer in Lead Agency

Chair  
 \_\_\_\_\_  
 Title of Responsible Officer

\_\_\_\_\_  
 Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
 Signature of Preparer (if different from Responsible Officer)