

**COMMERCIAL/RETAIL FINDINGS RESOLUTION
580 COLUMBIA TURNPIKE, LLC PROJECT**

A regular meeting of Rensselaer County Industrial Development Agency (the “Agency”) was convened in public session in the 3rd Floor Conference Room at the Quackenbush Building located at 333 Broadway in the City of Troy, Rensselaer County, New York on November 18, 2021 at 4:00 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:

Cynthia A. Henninger	Chair
Michael Della Rocco	Vice Chair
Ronald Bounds	Secretary/Treasurer
Douglas Baldrey	Member
John H. Clinton, Jr.	Member
Renee Powell	Member

ABSENT:

None

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Robin LaBrake	Assistant
Peter R. Kehoe, Esq.	Special Agency Counsel
John E. Sweeney, Esq.	Special Agency Counsel
A. Joseph Scott, III, Esq.	Special Counsel

The following resolution was offered by Douglas Baldrey, seconded by Ronald Bounds, to wit:

Resolution No. 1121-__

**RESOLUTION (A) DETERMINING THAT THE PROPOSED 580 COLUMBIA
TURNPIKE, LLC PROJECT IS A COMMERCIAL PROJECT AND (B) MAKING
CERTAIN FINDINGS REQUIRED UNDER THE GENERAL MUNICIPAL LAW.**

WHEREAS, Rensselaer County 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 128 of the 1974 Laws of New York, as amended, constituting Section 903-d of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of commercial, manufacturing and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

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

WHEREAS, 580 Columbia Turnpike, LLC, a New York State limited liability company (the “Company”), submitted an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately five (5) acre portion of approximately three (3) parcels of land totaling approximately 7.45 acres located at 578 Columbia Turnpike (tax map no.: 166.-7-3.5), Columbia Turnpike (tax map no.: 166.-7-6.51) and 580 Columbia Turnpike (tax map no.: 166.-7-5) in the Town of East Greenbush, Rensselaer County, New York (collectively, the “Land”), (2) the construction on the Land of three (3) mixed-use buildings containing approximately 115,000 square feet of space and associated parking (collectively, the “Facility”), (3) the further construction on the Land of a municipal road and infrastructure (collectively, the “Improvements”) and (4) the acquisition and installation therein and thereon of certain machinery, equipment and other personal property (collectively, the “Equipment”) (the Land, the Facility, the Improvements and the Equipment being collectively referred to as the “Project Facility”); all of the foregoing to be owned by the Company and operated as an approximately 78 unit residential apartment buildings, with approximately 22,000 square feet of commercial/retail space and any other directly and indirectly related activities; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on October 14, 2021 (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 Executive Director 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 October 29, 2021 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located, (B) caused notice of the Public Hearing to be posted on November 1, 2021 on a bulletin board located at the East Greenbush Town Hall located at 225 Columbia Turnpike in the Town of East Greenbush, Rensselaer County, as well as on the Agency’s website, (C) caused notice of the Public Hearing to be published on November 3, 2021 in The Record, a newspaper of general circulation available to the residents of the Town of East Greenbush, Rensselaer County, New York, (D) conducted the Public Hearing on November 16, 2021 at 6:00 o’clock p.m., local time at the East Greenbush Town Hall located at 225 Columbia Turnpike in the Town of East Greenbush, Rensselaer County, New York, and (E) prepared a report of the Public Hearing (the “Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), by resolution adopted by the members of the Agency on October 14, 2021 (the “SEQR Resolution”), the Agency (A) concurred in the determination that the Town of East Greenbush Town Board (the “Town Board”) is the “lead agency” with respect to SEQRA and (B)

acknowledged receipt of a negative declaration from the Town Board dated August 16, 2017 (the “Negative Declaration”), in which the Zoning Board determined that the Project to be a “Type I action” that will not have a “significant environmental impact on the environment” and accordingly, that an environmental impact statement is not required to be prepared with respect to the Project (as such quoted terms are defined in SEQRA); and

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

WHEREAS, to aid the Agency in determining whether the Project qualifies for Financial Assistance as a commercial project within the meaning of the Act, the Agency has reviewed the following (collectively, the “Project Qualification Documents”): (A) the Application, including the attached Cost Benefit Analysis and (B) Housing Demand Analysis prepared by Storrs Associates, LLC (collectively, the “Qualification Documents”); and

WHEREAS, the Agency has given due consideration to the Project Qualification Documents, and to representations by the Company that although the Project constitutes a project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost, the Company has represented to the Agency (A) that (i) the Project is located within census tract 524.04, which is contiguous to contiguous census tracts 515 and 516, which are contiguous to distressed census tract 1 and therefore, is in a “highly distressed area”, as that term is defined in Section 854(18) of the Act, and (ii) completion of the Project will serve the public purposes of the Act by increasing the overall number of permanent, private sector jobs in the State of New York and (B) the Project provides a good or service not otherwise reasonably accessible to the residents of the Town of East Greenbush, Rensselaer County, New York; and

WHEREAS, pursuant to Section 862(2)(b) of the Act, the Agency would be authorized to provide financial assistance in respect of the Project provided that the obligation of the Agency to proceed with the Project was subject to certain conditions, including (1) following compliance with the procedural requirements of Section 859-a of the Act, a finding by the Agency that the Project would preserve permanent, private sector jobs in the State of New York or increase the overall number of permanent, private sector jobs in the State of New York and (2) confirmation by the County Executive of the Rensselaer County of the proposed action by the Agency with respect to the Project; and

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

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

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

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

B. The Qualification Documents make the following comments/findings regarding housing in the Town of East Greenbush, Rensselaer County:

- Fills the Town of East Greenbush and Rensselaer County rental gap
- Will appeal to workers, couples of all ages and young professionals
- Encourage economic activity
- Promote quality affordable housing
- Increase job opportunities for all residents

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

D. The Company has informed representatives of the Agency that the Project is expected to create approximately two (2) full time permanent, private sector jobs.

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

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

A. That although the Project does constitute a project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost, the Project (1) is located in a "highly distressed area" (as defined in the Act) and (2) provides a good or service not otherwise reasonably accessible to the residents of the Town of East Greenbush, Rensselaer County.

B. That (1) the Project Facility will provide necessary infrastructure for area employers and businesses, (2) the completion of the Project Facility will have an impact upon the creation, retention and expansion of employment opportunities in the Town of East Greenbush and Rensselaer County and in the State of New York, and (3) the completion of the Project will assist in promoting employment opportunities and assist in preventing economic deterioration in the Town of East Greenbush and Rensselaer County and in the State of New York.

C. That the acquisition, construction and installation of the Project Facility is essential to the retention of existing employment and the creation of new employment opportunities and is essential to the prevention of economic deterioration of businesses and neighborhoods located in the Town of East Greenbush, Rensselaer County.

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

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

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

Section 4. This Resolution shall take effect immediately.

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

Cynthia A. Henninger	VOTING	YES
Michael Della Rocco	VOTING	YES
Ronald Bounds	VOTING	YES
Douglas Baldrey	VOTING	YES
John H. Clinton, Jr.	VOTING	YES
Renee Powell	VOTING	YES

The foregoing Resolution was thereupon declared duly adopted.

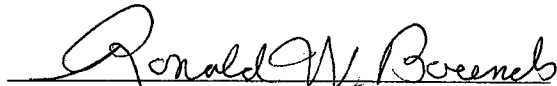
STATE OF NEW YORK)
) SS.:
COUNTY OF RENSSELAER)

I, the undersigned Secretary of Rensselaer 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 November 18, 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 Chapter 417 of the Laws of 2021 (the "2021 Laws"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given; and (D) there was a quorum of the members of the Agency, either in person or attending remotely in accordance with the 2021 Laws, 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 18th day of November, 2021.


Secretary

(SEAL)