

FEB 02 2023

CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY

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

RECEIVED

January 19, 2023

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Hon. Thomas P. Di Napoli  
New York State Comptroller  
Office of the State Comptroller  
110 State Street  
Albany, New York 12236

Hon. Sandra L. Beattie  
Acting Budget Director  
New York State Division of the Budget  
State Capitol  
Albany, New York 12224

Hon. Andrea Stewart-Cousins  
Office of the President Pro Tempore  
New York State Senate  
State Capitol  
Albany, New York 12224

Hon. Carl E. Heastie  
Speaker  
New York State Assembly  
Legislative Office Building, 932  
Albany, New York 12248

Hon. Jeanette M. Moy  
Commissioner  
New York State Office of General Services  
Corning Tower, 36<sup>th</sup> Floor  
Empire State Plaza  
Albany, New York 12242

Hon. Jeffrey Pearlman  
Director  
Authorities Budget Office  
P.O. Box 2076  
Albany, New York 12220

**RE: *Notice of Disposition of Real Property by Negotiation Pursuant to  
New York Public Authorities Law Section 2897(6)(d)***

Dear Sir or Madam:

Please accept this correspondence as the explanatory statement required by Section 2897(6)(d)(ii) of the New York State Public Authorities Law ("PAL"). PAL Section 2897(6)(d)(ii) requires public authorities to provide notice and a brief explanation of the circumstances of the disposition by negotiation of property owned by a public authority. Pursuant to PAL Section 2897(6)(d)(ii), the following explanatory statement is being provided at least ninety (90) days prior to the disposal of property by negotiation.

**Explanatory Statement**

As authorized by PAL Section 2897(6)(c), the City of Albany Industrial Development Agency (the "Agency") intends to dispose of property by disposition to Liberty Square Development LLC (the "Company"), a holding company created and controlled by Capitalize Albany Corporation (the "Corporation") no less than ninety (90) days from the date of this notice. The proposed property

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disposition by the Agency is within the purpose, mission or governing statute of the Agency and therefore is exempted from publicly advertising for bids pursuant to PAL Section 2897(6)(c)(v). The purpose of the proposed disposition is to enable the Corporation to complete the assemblage of real estate parcels located in downtown City of Albany 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 (the “Project”).

**Description of Parties Involved in the Property Transaction**

The Agency is a public benefit corporation of the State of New York tasked with, among other things, advancing job opportunities and economic development for the City of Albany, Albany County, New York (the “City”). The Agency has an office located at 21 Lodge Street, Albany, New York 12207.

The Corporation is a not-for-profit corporation duly organized and existing under Section 1411 of the Not For Profit Corporation Law of the State of New York (the “Enabling Act”). The Corporation has an office located at 21 Lodge Street, Albany, New York 12207.

The Property will be owned by Liberty Square Development LLC (the “Company”), a limited liability company of the State of New York of which the Corporation is sole member; the Company was formed by the Corporation for liability protection. The Company has an office located at 21 Lodge Street, Albany, New York 12207.

**Description of the Property**

The property to be conveyed by the Agency to the Company consists of approximately 0.88 acres containing certain parcels of property located in the City, known as the Liberty Park Parcels (collectively, the “Property”):

<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

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### **Description of the Project**

In May, 2020, the Corporation presented an application (the "Application") to the Agency, which Application requested that the Agency exercise its statutory power of eminent domain pursuant to Section 858 of Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "GML"), to acquire the Property for the benefit of the Corporation to enable the Corporation to complete the Project. The Property was selected for the Project because it is a blighted, stagnant, underutilized and underdeveloped property consisting mainly of surface parking lots in significant disrepair, with poor pavement conditions, and long-vacant buildings which have been flagged as "unsafe" for emergency responders to enter.

Pursuant to the provisions of the GML and the Eminent Domain Procedure Law of the State of New York (the "EDPL," and, collectively with the GML, the "Act"), the Agency (a) on November 19, 2020, adopted a resolution (the "Public Hearing Resolution") scheduling a public hearing (the "Public Hearing") to be held with respect to the Project, and (b) on December 9, 2020, conducted the Public Hearing as required by the EDPL.

In connection with the undertaking of the Project, the Agency and the Corporation entered into a funding and property transfer agreement dated November 11, 2020 (the "Funding Agreement"), whereby the Corporation agreed, among other things, to pay the purchase price of the Property in connection with the eminent domain proceeding commenced by the Agency.

Further pursuant to the provisions of the Act, the Agency, on January 21, 2021, adopted (a) a resolution (the "SEQRA Resolution") 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"), in which 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, pursuant to the provisions of the EDPL, the Agency, on January 21, 2021 adopted a resolution (the "Determination and Findings Resolution") in which the Agency determined (a) that the appropriate redevelopment and adaptive reuse of the City would be frustrated if the Property were not included in the redevelopment effort, (b) that 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, and (c) that it would proceed with the acquisition of the Property pursuant to the EDPL.

### **Estimated Fair Market Value of the Property**

Pursuant to PAL Section 2897(3) and EDPL Section 302, at the request of the Agency, a commercial appraisal of the Property dated as of December 24, 2020 (the "Appraisal") was prepared by

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Armstrong Appraisals, LLC, which Appraisal estimated the fair market value of the Property to be equal to \$2,650,000.

In accordance with the procedures under the EDPL, and pursuant to an Order of the Supreme Court dated October 21, 2022, the Agency was vested with title to the Property. In connection with the vesting of such title, the Agency deposited an amount equal to \$2,650,000 with the office of the Albany County Clerk as an advance payment (the "Advance Payment") for the acquisition of the Property pursuant to a Notice of Deposit with Court dated September 30, 2022. Such amount was provided to the Agency from the Corporation in accordance with the terms of the Funding Agreement. In addition to the Advance Payment, the Corporation is also obligated under the Funding Agreement to reimburse the Agency for all costs, fees and expenses related to the eminent domain proceeding.

The Agency now seeks to convey the Property to the Company, and to convey the Project to Company for a sale price of \$1.00. As discussed above, the Company provided the Agency with the Advance Payment, and the Agency intends to convey the Project to the Company for \$1.00 in consideration of the money already tendered to the Agency by the Company.

In connection with the conveyance to the Company, by resolution to be adopted by the members of the Agency, the Agency will determine that, for purposes of PAL Section 2897(7), (1) the Corporation is a local development corporation constituting a public entity of the State of New York, (2) the Company is a limited liability company created and controlled by the Corporation, and (3) the purpose of the transfer of the Property is within the purpose and mission of the Agency.

#### **Justification for Disposing of Property by Negotiation**

The Agency's mission is to facilitate economic development in the City and the Property was strategically acquired by the Agency for this purpose. As discussed above, the acquisition of the Property by the use of eminent domain was necessary to allow the Corporation to complete the Project and revitalize a blighted and underutilized area. The Project is consistent with the mission and public objectives of the Agency in improving the economic condition of the City. The Project will result in the retention of existing jobs and create new construction jobs, and will assist in the improvement of this portion of the City to bring it up to scale with other already-redeveloped sections.

#### **Expected Conveyance Date of the Property**

The Agency expects to convey the Property to the Company at least ninety (90) days after the date of this letter.

#### **Agency Action**

Based upon the foregoing considerations, the Agency will determine that the conveyance of the Property from the Agency to the Company is in the public interest and will preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of the City. The Agency will

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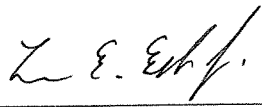
further determine that the proposed disposition is within the purpose, mission or governing statute of the Agency, and thus is exempted from public advertising for bids pursuant to PAL Section 2897(6)(c)(v).

If you have any questions or comments relating to the proposed disposition described herein, please contact the undersigned at the address above.

Respectfully submitted,

CITY OF ALBANY  
INDUSTRIAL DEVELOPMENT AGENCY

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

  
Lee E. Eck, Jr.  
Vice Chair

cc: A. Joseph Scott, III, Esq. (via email)  
Charles W. Malcomb, II, Esq. (via email)