

FINAL AUTHORIZING RESOLUTION
(One Dutchess Phase 3, LLC 2022 Project)

At a special meeting of the Dutchess County Industrial Development Agency (the “Agency”) convened in public session at 8:00 a.m., local time at Three Neptune Road, Poughkeepsie, New York on the 24th day of May, 2022, the following members of the Agency were:

PRESENT: Mark Doyle, Vice Chairman
Kathleen M. Bauer, Secretary/Treasurer
Alfred D. Torreggiani
Donald R. Sagliano
Ronald J. Piccone, II

ABSENT: Timothy Dean, Chairman
Amy L. Bombardieri

ALSO PRESENT: Sarah Lee, Executive Director
Jane Denbaum, Chief Financial Officer
Donald Cappillino, Counsel
Elizabeth A. Cappillino, Counsel

After the meeting had been duly called to order, the (Vice) Chairman announced that among the purposes of the meeting was to consider and act on certain matters pertaining to acquisition of title to, or a leasehold interest in, a certain industrial development facility (One Dutchess Phase 3, LLC 2022 Project) and the leasing of the facility as more particularly described below:

**RESOLUTION OF THE DUTCHESS COUNTY INDUSTRIAL
DEVELOPMENT AGENCY APPROVING THE
CONSTRUCTION, IMPROVEMENT, RECONSTRUCTION,
REPAIR, RENOVATION, INSTALLATION, FURNISHING AND
EQUIPPING OF A CERTAIN INDUSTRIAL DEVELOPMENT
FACILITY FOR ONE DUTCHESS PHASE 3, LLC AND
APPROVING THE FORM, SUBSTANCE AND EXECUTION OF
RELATED DOCUMENTS.**

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended and Chapter 335 of the Laws of 1977 of the State of New York (collectively, the “Act”), the Agency was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, ONE DUTCHESS PHASE 3, LLC, a New York limited liability company having its principal office at 24 Dutchess Landing Road, Poughkeepsie, New York 12601 (the “Company”), has submitted an application to the Agency requesting the Agency provide certain “financial assistance” (within the meaning of the Act) with respect to the Facility

(hereinafter defined), including potential exemptions from certain sales and use taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “**Financial Assistance**”) for the following project (the “**Project**”) in connection with the acquisition, construction, improvement, reconstruction, repair, renovation, installation, furnishing and equipping of a certain mixed-use residential and commercial facility consisting of the following:

- (A) the acquisition of approximately 3.8 acres of land located at 10 O’Neill Court, 20 O’Neill Court and 70 Dutchess Landing Road, Town of Poughkeepsie, County of Dutchess, State of New York, bearing Tax Map Grid Nos. 134689-6062-02-781496, 134689-6062-02-768525 and 134689-6062-02-755495 (the “**Land**); and
- (B) the construction of (i) one approximately 13,753 square foot per story, four-story structure (approximately 55,012 total square feet) for multi-unit residential use, presently estimated to be 42 units, to be located at 10 O’Neill Court, Poughkeepsie, New York (ii) one approximately 13,753 square foot per story, four-story structure (approximately 55,012 total square feet) for multi-unit residential use, presently estimated to be 42 units, to be located at 20 O’Neill Court, Poughkeepsie, New York; and (iii) one approximately 4,000 square foot, one-story structure for commercial use to be located at 70 Dutchess Landing Road, Poughkeepsie, New York (collectively, the “**Improvements**”); and
- (C) the acquisition and installation of new equipment, machinery and other personal property for use in the premises described above (collectively the “**Equipment**” and, together with the Land and Improvements, the “**Facility**”) to be owned by the Agency and leased to the Company to be used as part of the Facility; and

WHEREAS, the Project includes the following, as they relate to the acquisition, construction, improvement, reconstruction, repair, renovation, installation, furnishing, equipping, and completion of such Facility, whether or not any materials or supplies described below are incorporated into or become an integral part of such Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with acquisition, construction, improvement, reconstruction, repair, and renovation of the Facility; and (ii) purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with acquisition, construction, improvement, reconstruction, repair and renovation of the Facility and installation of the equipment; and

WHEREAS, the Agency by resolution duly adopted on April 20, 2022 (the “**Preliminary Resolution**”), decided to proceed under the provisions of the Act; and

WHEREAS, the Agency will acquire a leasehold interest in the Land and the Improvements pursuant to a certain Company Lease Agreement, dated as of May 1, 2022, or such other date as the Chairman or the Executive Director of the Agency and counsel to the Agency shall agree (the “**Company Lease**”), by and between the Company and the Agency; and

WHEREAS, the Agency will acquire title to the Equipment pursuant to a certain Bill of Sale, dated the Closing Date (as defined in the hereinafter defined Lease Agreement) (the “**Bill of Sale**”), from the Company to the Agency; and

WHEREAS, the Agency will sublease and lease the Facility to the Company pursuant to a certain Lease and Project Agreement, dated as of May 1, 2022 or such other date as the Chairman or Executive Director of the Agency and counsel to the Agency shall agree (the “**Lease Agreement**”), by and between the Agency and the Company; and

WHEREAS, the Company has agreed with the Agency, on behalf of the Agency and as the Agency’s agent, to complete the Project Work (as defined in the Lease Agreement) substantially in accordance with the Plans and Specifications (as defined in the Lease Agreement); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted by the Department of Environmental Conservation of the State of New York (the laws and regulations hereinafter collectively referred to as “**SEQRA**”), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination to undertake the Project; and

WHEREAS, on May 20, 2021, the Town of Poughkeepsie Planning Board (the “**Planning Board**”) adopted a 22-page Findings Statement (the “**Findings Statement**”) containing a history of the approval process conducted by the other involved agencies and thorough analysis of the Project and concluded the SEQRA review process for the Project; and

WHEREAS, the Agency hereby determines that the Findings Statement, attached hereto as Exhibit A and incorporated by reference herein, accurately and effectively examines the environmental issues presented by the Project; and

WHEREAS, the Company has demonstrated that it has the support of the Town of Poughkeepsie for the Project in compliance with the Agency’s Retail and Housing Policy; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company consistent with the policies of the Agency, in the form of (i) exemptions from sales and use taxes in an amount not to exceed \$1,637,455.63 in connection with the purchase or lease of equipment, building materials, services or other personal property with the respect to the Facility; and (ii) exemptions from mortgage recording taxes for one or more mortgages securing an amount presently estimated to be \$23,356,000.00 but in any event not to exceed \$24,000,000.00 in connection with the Project Work; and

WHEREAS, in compliance with §859-a of the Act, the Agency on May 20, 2022 held a public hearing on the grant of financial assistance as set forth herein following publication in the *Poughkeepsie Journal* on May 6, 2022 of a notice of the public hearing; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the leasing of the Facility by the Agency to the Company.

NOW, THEREFORE, BE IT RESOLVED, by the Agency (a majority of the

members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby finds and determines:

(a) The Action is a Type I Action pursuant to SEQRA.

(b) Having considered the Planning Board's Findings Statement and the documents incorporated by reference therein, the Agency hereby concurs in the Planning Board's findings and decisions contained in the Findings Statement and hereby adopts as its own the Findings Statement attached hereto as Exhibit A.

(c) The Agency hereby ratifies the findings and required mitigation measures set forth in the Findings Statement promulgated by the Planning Board for the Project.

(d) The basis for this decision is set forth in the Findings Statement attached hereto and incorporated by reference herein, and thus all the provisions of SEQRA have been met.

Section 2. The Agency further hereby finds and determines:

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

(b) The Facility constitutes a "project", as such term is defined in the Act; and

(c) The public hearing held by the Agency on May 20, 2022, concerning the grant of Financial Assistance as set forth herein and the nature and location of the Facility was duly held in accordance with the laws of the State of New York, including but not limited to the giving of public notice of the meeting a reasonable time before the meeting and affording a reasonable opportunity for persons with differing views to be heard on Agency's providing the financial assistance contemplated herein and the location and nature of the Facility; and

(d) The Project Work and the leasing of the Facility to the Company will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Dutchess County and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(e) The Project will serve the Agency's public purposes as set forth in the Act by preserving or increasing the number of permanent, private sector jobs in Dutchess County and the State of New York.

(f) Based upon representations of the Company and counsel to the Company, the Facility conforms with the local zoning laws and planning regulations of Dutchess County and all regional and local land use plans for the area in which the Facility is located; and

(g) The Agency determines that there is satisfactory support from the Town of Poughkeepsie for the Project in compliance with the Agency's Retail and Housing Policy; and

(h) It is desirable and in the public interest for the Agency to approve the requested Financial Assistance for this Project; and

(i) The Company Lease will be an effective instrument whereby the Agency leases the Land and Improvements from the Company; and

(j) The Lease Agreement will be an effective instrument whereby: (1) the Agency leases and subleases the Facility to the Company; (2) the Company agrees to comply with all Environmental Laws (as defined therein) applicable to the Facility and will indemnify and hold harmless the Agency for all liability under all such Environmental Laws; and (3) the Agency and the Company set forth the circumstances in which the Agency may recapture some or all of the benefits granted to the Company in the event any enumerated Recapture Event (as defined therein) occurs.

Section 3. In consequence of the foregoing, the Agency hereby determines to: (i) lease the Land and Improvements from the Company pursuant to the Company Lease, (ii) execute, deliver and perform the Company Lease, (iii) sublease and lease the Facility to the Company pursuant to the Lease Agreement, and (iv) execute, deliver and perform the Lease Agreement.

Section 4. The Agency is hereby authorized to acquire the real property and personal property described in Exhibit A and Exhibit B, respectively, to the Lease Agreement, and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition are hereby approved, ratified and confirmed.

Section 5. The form and substance of the Company Lease and the Lease Agreement (each in substantially the forms presented to the Agency and which, prior to the execution and delivery thereof, may be redated and renamed) are hereby approved.

Section 6. Recapture Provisions. The Agency has retained certain recapture rights under the terms and conditions of the Lease Agreement upon the occurrence of a Recapture Event as defined therein. Section 5.4 of the Lease Agreement relating to recapture rights by the Agency against the Company is attached hereto and made a part hereof as Exhibit B.

Section 7. Based upon the representation and warranties made by the Company in the Application, the Agency hereby authorizes and approves the following economic benefits to be granted to the Company in connection with the Project Work in the form of: (i) exemptions from sales and use taxes in an approximate amount not to exceed \$1,637,455.63 in connection with the purchase or lease of equipment, building materials, services or other personal property with respect to the Facility and (ii) exemptions from mortgage recording taxes for one or more mortgages securing an amount not to exceed \$24,000,000.00, in connection with the financing of the construction, renovation and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of constructing, renovating and equipping of the Facility. The Agency agrees to consider any requests by the Company for increases to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services, and, to the extent required, the Agency authorizes and conducts any supplemental public hearing(s).

Section 8. Subject to (i) execution of the Agency Documents by the Company and (ii) the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Facility satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the Project Work and appoints the Company as the true and lawful agent of the Agency.

Section 9.

(a) The Chairman, Vice Chairman, any member of the Agency or the Executive Director are hereby authorized, on behalf of the Agency, to execute and deliver the Company Lease and the Lease Agreement (including any Mortgage and accompanying Assignment of Leases and Rents and Consents to Assignment and any other financing documents reasonably approved as to form and substance by the Executive Director and counsel to the Agency), all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, any member of the Agency or the Executive Director shall approve, and such other related documents as may be, in the judgment of the Executive Director and Agency Counsel necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the “**Agency Documents**”). The execution thereof by the Chairman, Vice Chairman, any member of the Agency or the Executive Director of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, Vice Chairman, any member of the Agency and the Executive Director of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement). The Agency hereby appoints each Member of the Agency and Agency Counsel to serve as an Assistant Secretary of the Agency for purposes of this transaction.

Section 10. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 11. This resolution shall take effect immediately.

This resolution was duly moved by Alfred D. Torreggiani, seconded by Ronald J. Piccone, II, discussed and adopted with the following members voting:

Timothy Dean, Chairman	being	ABSENT
Mark Doyle, Vice Chairman	VOTING	“Aye”
Kathleen M. Bauer, Secretary/Treasurer	VOTING	“Aye”

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ROTHSCHILD
& EGAN LLP
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Alfred D. Torreggiani	VOTING	“Aye”
Donald R. Sagliano	VOTING	“Aye”
Ronald J. Piccone, II	VOTING	“Aye”
Amy L. Bombardieri	being	ABSENT

Adopted: May 24, 2022

EXHIBIT A

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State Environmental Quality Review Act (SEQRA) Findings Statement

One Dutchess Avenue Rezoning and Mixed-Use Development

Pursuant to Article 8 of the Environmental Conservation law and 6 NYCRR Part 617 *et seq.*, the Town of Poughkeepsie Planning Board, as an Involved Agency, makes the following findings.

- 1. Name of Action:** One Dutchess Avenue – Site Plan Phase 3 in the Waterfront Housing Overlay District (WHOD)
- 2. Description of Action:** One Dutchess Avenue is a mixed-use residential/commercial waterfront redevelopment involving an approximately 14.3-acre site in the Town and the City of Poughkeepsie. The City of Poughkeepsie Common Council, acting as Lead Agency for the environmental review of the proposed action under SEQRA, accepted a Final Environmental Impact Statement on March 19, 2012, and adopted and issued a written Statement of Findings relative to the overall project on May 7, 2012. In 2015, the City of Poughkeepsie Planning Board granted site plan and other approvals for the portion of the project located in the City. The City's approval included 300 residential units, 13,800 square feet of commercial space, and associated amenities for residents, as well as a greenway trail along the Hudson River for public use. That portion of the project is now under construction.

Approximately 4 acres (3.8 ac) of the 14.3-acre redevelopment site are located in the Town. The Town first reviewed plans for this portion of the project in 2012. The approval process in the Town included a request for the Town Board to rezone the land to a Waterfront Housing Overlay District (WHOD) designation pursuant to §210-21.1 of the Town Zoning Code. On September 18, 2014, the Town Planning Board voted to convey a positive recommendation to the Town Board on the Waterfront Housing Overlay District (WHOD) designation with several conditions. However, on November 16, 2016, the Town Board denied the rezoning to WHOD by resolution 11:16 - #12 of 2016. The Town Board's resolution identified six (6) specific reasons why the proposed zoning amendment was not in the best interest of the Town.

In 2019, the applicant submitted a revised concept plan for the Town portion of the site. The revised concept plan proposed two (2) 4-story residential buildings with 42 units in each building; and a 1-story building with 4,000 square feet (SF) of commercial space. The plan includes indoor and outdoor amenities for future residents and the continuation of the greenway trail along the Hudson River waterfront. The revised concept plan was intended to respond to the six specific reasons cited by the Town Board in its November 2016 denial of the previous rezoning request. The applicant presented the revised concept to the Town of Poughkeepsie Town Board at a Committee of the Whole on January 9, 2019.

In March 2019, the applicant submitted an application for rezoning to the Town Board. On April 17, 2019, the Town Board adopted resolution 4:17 - #20 of 2019 which referred the application to the Planning Board "for a recommendation as to whether, in the opinion of the Planning Board,

the application supports a Waterfront Housing Overlay District designation” pursuant to §210-21.1. The resolution also directed the Town Clerk to refer the application to the Dutchess County Department of Planning and Economic Development (DCDP&ED) and to each of the municipalities adjoining the Town of Poughkeepsie pursuant to §210-155. Lastly, the resolution set a public hearing on the proposed zoning amendment for June 5, 2019.

At its meeting on May 16, 2019, the Planning Board considered the requested WHOD Designation for One Dutchess Avenue. Pursuant to §210-21.1(D)(2), the Planning Board voted 6-0 to recommend to the Town Board that the application does support a Waterfront Housing Overlay District (WHOD) designation. On May 20, 2019, the DCDP&ED advised that adoption of the zoning was a matter of local concern.

On June 5, 2019, the Town Board opened the public hearing and received comments. A SEQRA Project Assessment (PA) was submitted in September 2019, which was revised October 7, 2019, detailing the environmental impacts of and mitigation measures for the Town portion of the overall project. Public comment continued to be received until the public hearing was closed on December 18, 2019.

A draft SEQRA findings statement was prepared by the Town planning department staff dated December 12, 2019. On January 8, 2020 the Town Board adopted a resolution which included the following actions: adopting the SEQR findings statement; determining that the proposed zoning amendment is consistent with the town's approved Local Waterfront Revitalization Program (LWRP); finding that the proposed WHOD zoning designation is consistent with the purposes of the zone; waiving a three-story maximum building height requirement to allow four-story buildings; and amending the project site's zoning designation from the Heavy Industrial (I-H) district to the Waterfront Housing Overlay District (WHOD).

In July 2020, the applicant submitted an application for Site Plan Approval. The application included a set of plans and a letter identifying updates to the previously reviewed SEQR PA. Subsequent submittals were received for review in October 2020, and in January, March and April 2021, each including more detailed project plans and PAs based on comments received from Town staff, consultants, and the Planning Board.

The currently proposed project (the “Project”) will include 2 four-story buildings containing 42 residential units in each building for a total of 84 units with roof-top terraces and an outdoor patio with cooking facilities and seating available for use by residents. The site plan proposes an additional 1-story building containing 4,000 square feet of commercial space with a 3,500 square foot roof-top terrace available for use by residents and the public. The commercial building is approximately 75 feet from the riverfront park, allowing access from the extension of the newly constructed road that will service the entire development (Dutchess Landing Road), the riverfront park and from the proposed development by its residents. Each of the 42-unit residential buildings consist of approximately 57,600 square feet of floor area and includes a roof top terrace of 1,700 square feet. There is a ground-level outdoor amenity area of 4,807 square feet. The buildings are designed similar to two 42-unit buildings constructed, completed, and occupied within the City portion of the development.

The proposed plan provides more open space and recreational amenities for future residents than plans previously considered by the Town Board and Planning Board. The plan provides an outdoor

amenity area of 4,807 square feet in size with barbeque facilities, pergolas and benches located between the residential buildings. Each of the two residential buildings will have an outdoor rooftop terrace recreational area with an adjacent indoor community room on the fourth-floor available for Project residents to gather. The residents of the Town portion of the development will also have access to and use of the existing pool, outdoor kitchens and clubhouse completed and in use in the City portion of the project. The proposed public riverfront park along the Hudson River containing approximately 0.82 acres within the Town and a total of 3 acres overall along the Hudson riverbank provides additional open space and recreational area for future residents. The riverfront park is accessible to the public and provides access to the River, complying with the Town’s LWRP. The City of Poughkeepsie has agreed to own and maintain the riverfront park which will be separated from the development but accessible by residents. Until the transfer of ownership to the City, the park will be maintained by the applicant.

- 3. Project Location:** The Project Site consists of the following parcels.
- Tax parcel 131300-6062-59-766443 in the City of Poughkeepsie
 - Tax parcels in the Town of Poughkeepsie:
 - Tax Parcel 134689-6062-02-745510 (**riverfront park**): 0.82 acres +/-
 - Tax Parcel 134689-6062-02-781486 (Building I): 13,753 SF
 - Tax Parcel 134689-6062-02-768525 (Building J): 13,753 SF
 - Tax parcel 134689-6062-02-755495 (Commercial Building): 4,000 SF
- 4. Approvals:** The following approvals are required for the Project:

Table 1: Required Approvals/Review and Involved Agencies	
Agency	Approval/Review
Local Agencies	
City of Poughkeepsie	City Common Council Approved, 2012 Zoning amendment
	City Planning Board Approved, 2015 • Advisory opinion on zoning amendment • Special Permit (for residential use) • Site plan review • Aquatic Resource Permit
	City of Poughkeepsie Zoning Administrator Approved, 2015 • Floodplain Development Permit
	City DPW Approved Documentation that the City wastewater treatment facility has sufficient capacity to meet the demand from the Project and is in compliance with the existing SPDES permit Approval of sewer and water connections

	Local Waterfront Advisory Committee Approved 2015	Determination of consistency with LWRP
Town of Poughkeepsie	Town Board Adopted 2020	Zoning amendment
	Town Planning Board Issued and Pending	<ul style="list-style-type: none"> • Advisory opinion on zoning amendment - Issued on May 21, 2019 • Site plan review - Pending • Aquatic Resource Permit – Pending • Determination of consistency with LWRP – Pending
County Agencies		
Dutchess County Department of Public Works Approved, 2015		Permit for any work in County rights-of-way
Dutchess County Planning Board Matter of Local Concern		239m GML referral
NYS Agencies		
New York State Department of Health Approved		<ul style="list-style-type: none"> • Sanitary sewer connection • Water connection, water supply, storage and distribution system, Backflow prevention devices, swimming pools
NYS Department of State Coastal Zone Program Permit issued		Coastal Zone consistency determination
NYS Department of Environmental Conservation SPDES and WQC issued		<ul style="list-style-type: none"> • SPDES permit for construction related impacts • Water quality certification
NYS Office of Parks, Recreation and Historic Preservation No further action needed		Review of historic and archaeological resources (Determination of No Impact issued November 29, 2010)
NYS Office of General Services Transfer of Patent completed		Approval for use of State-owned lands along and/or under the Hudson River
Federal Agencies		
Army Corps of Engineers (ACOE) Permits issued		Permits and review for all work along the bank and in waters of Hudson River. Letters Patent issued 2015

5. Project History:

Date of DEIS Submission: February 23, 2010
Dates of Revised DEIS Submissions: May 14, 2010 and June 17, 2010
Date of DEIS Acceptance: June 21, 2010
Date of Public Hearing: July 28, 2010
Close of DEIS Comment Period: August 9, 2010
Date of FEIS Submission: June 15, 2011
Dates of Revised FEIS Submissions: December 29, 2011 and March 9, 2012
Date of FEIS Acceptance: March 19, 2012
Date of Findings Statement adopted by City Common Council: May 9, 2012
Date of Town Planning Board recommendation for adoption of WHOD zoning amendment to the Town Board: September 18, 2014
Date of Town Board resolution to Deny zone change: November 16, 2016
Date of Revised application for zone change to the Town Board: March 2019
Date of Town Planning Board recommendation for adoption of the WHOD zoning Amendment to the Town Board: May 16, 2019
Date of Town Board WHOD Zoning Amendment: January 8, 2020
Date of Application to the Planning Board for Site Plan Approval: July 2020.

6. Existing Uses: The Site (the Project Site and the State Land) was in industrial use from the mid-1800s until 1995. Prior to 1913, the site was an iron works and a glass works. Several kilns were associated with the glass works and kiln ash and slag were reportedly used as fill material on the site. The site was subsequently used for lumber processing activities. Pressure treatment of lumber with chromated copper arsenate is reported to have begun in 1966 by the A.C. Dutton Lumber Corporation and to have continued until 1995, when on-site industrial operations ceased. The site has been investigated; accepted into the New York Department of Environmental Conservation (NYSDEC or DEC) Brownfields Clean-up Program; and the entire site, in the City and Town, has been remediated in accordance with NYSDEC requirements. Certificates of Completion for the Brownfields clean-up have been issued by the NYSDEC for the Project Site and greenway trail parcels, which are attached to the applicant's SEQRA Project Assessment in Attachment B. Site Remediation Notes are included in the recently submitted plan set, last revised on April 26, 2021, which memorialize the terms and requirements of the New York State issued Certificate of Completion (COC).

7. Project Revisions: As initially proposed in the DEIS, the project consisted of 586 residential apartments in three 5-story buildings. Over the course of the ensuing years, the project evolved into a City development of 300 apartments in 8 buildings and 13,800 square feet of commercial space on the first floor of one of the eight buildings.

The initial design for the Town portion was for one building with four stories and 190 units. After the initial Findings made by the City, the applicant revised the Town plan based upon suggestions and discussions with Town officials and its Director of Development. The subsequent submission consisted of 7 buildings with 4 stories and 84 units in a variety of unit designs including flats and townhouses. The proposed current design is for 2 buildings with 4 stories and with 42 flats in each building and a 4,000 SF commercial building. The remaining land will be used for surface parking, open space, and amenity areas. Details of the site plan revisions are further described in the section below about Land Use and Zoning and throughout the

submitted Project Assessment. The other proposed improvements for the overall project, such as those on Dutchess Avenue and North Water Street and the greenway trail, remain the same.

- 8. Summary of Project Components:** The Project Site was an abandoned industrial site located next to the Hudson River. The applicant remediated the brownfields, is developing the City portion of the project and has obtained a change of zone from the Town Board to permit it to develop the Town portion in accordance with the proposed plan submitted to the Planning Board in July 2020.

Access to the Project Site will be from Dutchess Avenue and North Water Street at three locations. Internal circulation will be via a loop road. Additionally, public access to the greenway trail development will be from Dutchess Avenue and internal access from the development through stairways and ramps.

Utilities will be provided by connection to the joint City/Town water and wastewater disposal systems. Stormwater will be managed in accordance with the requirements of the most recent *New York State Stormwater Management Design Manual*. The Project will be developed, owned, and managed by The O'Neill Group – Dutton, LLC.

- 9. Facts and Conclusions in the EIS; and Project Assessment Relied Upon to Support the Decision**
The sections below set forth the potential environmental issues of concern and how the current Project proposal and design mitigates potential environmental impacts to the extent practicable. The discussion below follows the format of the Town of Poughkeepsie Town Board Resolution of SEQRA Findings to amend the zoning to the WHOD of January 8, 2020; the Town of Poughkeepsie Town Board resolution of SEQRA Findings to deny WHOD designation of November 16, 2016; and the SEQRA Findings Statement issued by the City of Poughkeepsie Common Council, as Lead Agency, which resulted in the Resolution of Approval dated May 9, 2012. The submitted Project Assessment, conceptual site plan, and other figures and attachments, reviewed per the three above-noted SEQRA Findings, form a basis for the Planning Board to assess the current Project and the applicant's request for site plan approval and subsequent Project development.

a. Environmental Impacts and Mitigating Measures

i. Land Use and Zoning

The proposed site development is consistent with the recommendations of the Poughkeepsie Town Plan, particularly the recommendation that a mix of commercial, recreational, and residential uses be encouraged along the waterfront. The adopted WHOD zoning and site redevelopment would locate housing near transit, pedestrian, and recreational amenities.

The City of Poughkeepsie's Waterfront Advisory Committee (WAC) reviewed the project on September 15, 2010, at which time they found the project was not consistent with the City's Local Waterfront Revitalization Plan (LWRP). The WAC then reviewed the revised project on November 30, 2011. Although a quorum was not present at that meeting, the WAC informally found that the revised project was consistent with the City's LWRP. The City Council had considered the comments of the WAC and the

analyses of LWRP consistency in the DEIS and FEIS and found that the project is consistent with the LWRP.

As noted above in the list of approvals, a Determination of Consistency with the Town's LWRP was adopted by the Town Board. The Town Planning Board's LWRP Determination of Consistency is pending. However, the completed site remediation and proposed mixed-use site redevelopment are consistent with LWRP Development Policies related to redevelopment of deteriorated waterfront sites, specifically the "Dutton Lumber site." The Project Site is near transit, recreational and cultural facilities and preserves and improves open space; and creates homes near leisure activities and reasonable proximity to places of work, which aspects are noted in the LWRP policies. The completed site remediation process resulted in the creation of a development site above the floodplain elevation consistent with LWRP policies related to flooding and erosion. The project DEIS and FEIS addressed conformity with City, Town, and State coastal policies as well as the Town's LWRP. Specifically, DEIS Table III.A-4 reviews the project's applicability of or compliance with each of the City's and Town's LWRP policies, which is the basis of an LWRP consistency review. Waterfront Consistency Review, as set forth in the Code of the Town of Poughkeepsie, Chapter 205, requires consistency determinations by reviewing agencies as per the policy standards in section 205-6, which includes a list of the applicable Town LWRP policies. These individual policies have been examined during DEIS and FEIS review, and the formal consistency review likely would utilize DEIS Table III.A-4 or an update thereof. Based upon these facts, it is anticipated that the Planning Board will conclude that the Project is consistent with the Town's LWRP.

As described above, on November 16, 2016 the Town Board denied the rezoning to WHOD by resolution 11:16 - #12 of 2016. The resolution identified six (6) specific reasons why the proposed zoning amendment was not in the best interest of the Town, which reasons are summarized below:

- #1 The proposed project is not consistent with the purposes of the WHOD.
- #2 The proposed density of 84 residential units is too high for the amount of land available.
- #3 The proposed project is devoid of any on-site recreational amenities for residents.
- #4 The project lacks sufficient parking for residents and visitors.
- #5 The proposed driveway aisle width of 24 feet is too narrow.
- #6 The project layout does not provide sufficient room for snow storage.

The submitted SEQRA PA includes an updated Impact Comparison Table (Table 2), which quantifies changes made in the 2021 site plan submission; 2019 conceptual site plan; and the previous 2014 conceptual site plan. The revisions to the conceptual site plan, to create the 2021 site plan, result in a proposed development with total building square footage reduced to 110,024 square feet (SF) from 182,700 SF in the 2014 plan, the addition of 4,000 SF of commercial space. The PA and plans also present an increase in "Usable Open Space" from 34,550 SF or 0.8 acres previously proposed in the 2014 concept plan to 40,355 SF or 0.93 acres in the 2021 site plan. According to the PA and plans, the 0.93 acres of "Usable Open Space" consists of park area of 35,720 SF, a commercial patio of 1,135 SF, and a rooftop terrace of 3,500 SF. However, in Town of

Poughkeepsie Code Chapter 210. Zoning, section 210-9. Definitions: the "Usable Open Space" definition refers to "... an unenclosed portion of the ground ... free of structures ..." which would exclude a rooftop area of commercial building. Therefore, the 3,500 SF proposed for the rooftop deck atop the commercial building is removed from the total submitted resulting in 36,855 SF of usable open space.

While the number of dwelling units, 84, remains the same as previously proposed, these units and associated amenities are provided within less total square footage, as noted above, and total building footprint area is reduced from 38,008 SF in the 2014 concept plan to 31,506 SF in the 2021 site plan. The on-site common recreation area has been increased from 4,000 SF to 11,707 SF, which includes a 4,807 SF "Outdoor Amenity Area," two 1,700 SF 4th floor terrace recreation areas, and the 3,500 SF rooftop terrace.

The currently proposed site plan identifies sufficient parking, proposing 143 spaces for residents, based upon 1.25 spaces per bedroom. An additional 16 spaces are provided for the proposed commercial space, compliant with zoning requirements. A total of 156 spaces are required by the Code and 159 spaces are provided. As shown in the current 2021 site plan, the drive aisles are 26 feet (26') wide, increased from the previously proposed 24' width in response to the Town Board's prior Findings to deny. The plans demonstrate the ability to accommodate ± 15,000 SF of snow storage within the Town limits. In the event of a significant snow storm, snow is to be removed from the site within 48 hours. A note has been placed on the site plan stating such.

The prior and currently submitted SEQRA Project Assessment (PA) provides the text of the Town Board's resolution to deny (11:16 - #12 of 2016) in "*italics*" followed by a discussion of how the Project has been modified to address the land use and zoning concerns of the Board. Review of the 2019 conceptual plan and the current 2021 site plan results in the more accurate land development values presented above. Since the 2019 conceptual site plan and corresponding PA were found by the Town Board to address the concerns raised in the Town Board's 2016 denial, the Town Board adopted SEQR Findings and amended the zoning to the WHOD on January 8, 2020. The current 2021 site plan application, plans, PA, and other submitted materials were reviewed with due consideration of: the 2019 concept plan, PA, and Town Board findings to adopt the WHOD zoning, the specific requirements and standards in zoning for site plan approval, and the WHOD. The 2021 site plan submission provides more detail about the proposed development thereby resulting in the conclusion that the proposal is consistent with the prior SEQR findings and current zoning. Many of the land development values for the currently proposed site plan are either improved from or the same as those presented in the 2019 concept plan. However, excerpts of the PA text are inserted below, which elaborate on how the revised Project is more responsive to the purposes of the WHOD:

(1) The proposed project is not consistent with the purposes of the WHOD.

Pursuant to section 210-21.1(A) of the Town Code the WHOD " overlay district is to encourage the provision of mixed uses along the Hudson River waterfront of the Town of Poughkeepsie" The applicant has not provided to the Board a revised layout depicting a viable commercial mix integrated into the project. To obtain favorable recognition by the Town Board the project would need to incorporate

neighborhood scale commercial development including shops and services that would be available to residents of the project as well as visitors to the waterfront. The Dutton Project, as proposed, consists solely of residential units without any commercial development and is therefore inconsistent with the WHOD.

The currently proposed plan provides a 1-story stand-alone building with 4,000 SF of commercial space. This space could support a variety of potential uses that would be available to residents of the Project as well as visitors to the waterfront. The proposed Site Plan provides a viable residential - commercial mix consistent with the purposes of the WHOD.

(2) The proposed density of 84 residential units is too high for the amount of land available.

Pursuant to section 210-21.1(C)(5) the maximum residential density is 28 units per acre "as determined by the Town Board." While the proposed project takes numeric advantage of the maximum potential development density, it does so by providing impervious building, parking spaces, and driveway aisles in lieu of usable green spaces and common areas for residents and visitors. While the layout for the project depicts landscaped areas that meet the minimum set forth in the code in most cases these areas are nothing more than narrow strips of land a few feet wide containing grass and some trees and shrubs. None of these areas would be established for, or suitable for, residents to sit and gather. To obtain favorable recognition by the Town Board the project would need to incorporate areas of "Usable Open Space" as that term is defined in the zoning law....

In order to obtain Town Board recognition the amount of Usable Open Space would need to be 10% to 35% of the total square footage of the site following the examples of other overlay districts as set forth in the Chapter 210 of the Town Code. The lack of any outdoor areas proposed as green spaces and common areas (i.e. Usable Open Space) indicates that the overall residential density is too high for the site and must be reduced in order to provide a quality living environment for residents.

Modifying the layout and reducing the number of residential buildings from seven to two allowed for the provision of "Usable Open Space" for the future residents of the Town property. Open space is provided in several areas. As indicated on the plans, an outdoor amenity area is provided between the residential buildings and will include barbeque and kitchen facilities, a fire-pit and pergola. Terraces will be provided on the fourth floor in both residential buildings with outdoor seating and tables and outdoor TV for gatherings and passive recreation. These terraces will provide unobstructed views of the Hudson River. Adjacent to the terraces on the fourth floor will be a community room with a wet bar, game table and seating areas. The commercial building will have a roof-top terrace available for residents and the public. This terrace also will provide views of the River. Residents in the Town portion of the development will have full access to the recreational facilities on the City portion, including three pools, outdoor recreational, cooking and seating areas, and pergolas, consisting of more than one acre of open space (51,993 SF). In addition, residents will

have full access to the new public waterfront park and walkway (approximately 3 acres, of which 0.8 acres is in the Town), a unique and attractive amenity.

(3) The proposed project is devoid of any on-site recreational amenities for residents.

Although a determination as to provision of on-site recreation space is typically the purview of the Planning Board pursuant to Town Law §274-a(6), the Town Board through its sole discretion to approve, modify, or deny an application for a WHOD zoning amendment, has determined that the unique siting of the project on the banks of the Hudson River compelled the inclusion of on-site recreation as part of the proposed plan. While the Town Board may otherwise leave the specific type and location of recreation facilities to a determination by the Planning Board during site plan review, the Town Board has determined that some level of recreational facilities should be incorporated into the project design, and that such facilities cannot merely be a walking path. Further the Town Board has determined that the applicant's proposed improvement of the waterfront lot adjacent to the Dutton Project site that would be available to the general public is not a substitute for providing on-site recreational amenities for residents of the proposed development.

On-site common areas or recreation space will be provided on the Town property. These areas include: an outdoor recreation area with cooking facilities, common fourth-floor terraces with community rooms in both residential buildings, and a roof-top terrace on the commercial building. Residents in the Town portion of the development will have full access to the recreational facilities on the City portion consisting of more than one acre of open space (51,993 SF) and recreational facilities. In addition, residents will have full access to the new public riverfront park.

(4) The project lacks sufficient parking for residents and visitors.

Pursuant to section 210-21.1(C)(5) the "Minimum parking shall be provided at a ratio of 1.5 spaces per dwelling unit or such other ratio as may be approved by the Town Board". While the project appears to meet the minimum parking standard on a per unit basis, the Town Board has determined that parking should be provided on a per bedroom basis in order to ensure sufficient parking for the project....The Town Board has determined that a parking rate of 1.25 spaces per bedroom would be appropriate in order to ensure sufficient parking not only for residents but for guests as well.

The proposed plan provides for the parking requested by the Town Board and consistent with the Zoning Code. As indicated on the plans, 140 spaces are provided for future Town residents, based upon the 1.25 spaces per bedroom. An additional 16 spaces are provided for the proposed commercial space, compliant with existing zoning requirements. A total of 156 spaces are required by the Code and 159 spaces are provided.

(5) The proposed driveway aisle width of 24 feet is too narrow.

As depicted on the proposed project layout several of the driveways providing access to the residential units are shown at 24 feet in width. Pursuant to section 210-92(H) of the Town Code a typical driveway width for this type of project would be 26 feet in order to provide sufficient backup and maneuver room between curbs and between opposing on- street parking spaces. The reason for the reduced aisle width appears related to the high density of the proposed project- in other words in order to squeeze the proposed 84 units onto the site aisle widths needed to be reduced. The Town Board has determined that the driveway aisle widths for the project should meet the standard of 26 feet as set forth in the zoning code, and that said standard is the minimum necessary to ensure access for emergency vehicles and public safety for the Dutton Project.

The main access driveways connecting the Town property to the City property are now shown at 26 feet in width, as these driveways will have the most traffic. The internal driveway aisles between parking areas are proposed as 24 feet in width. The applicant has completed a truck turning radius analysis to show that an aerial fire truck can access all areas of the Town development with the proposed driveway and aisle width. The details of the driveway and parking aisle layout have been further reviewed by the Planning Board and staff during the Site Plan review process.

(6) The project layout does not provide sufficient room for snow storage.

The lack of sufficient snow storage combined with the insufficient parking and restrictive driveway aisle widths indicate that during a winter in which snow fall is heavy that movement on the site by residents, visitors, delivery vehicles, and emergency vehicles would set up conditions that would endanger resident health, safety and welfare....

Snow storage areas are depicted in the 2021 plans, demonstrating ±15,000 SF of snow storage. In the event of a significant snow storm, snow is to be removed from the site within 48 hours. A note has been added to the 2021 site plan stating such.

ii. Topography and Slope

Site elevations range from a low point of approximately two feet above mean sea level near the Hudson River to a high point of 52 feet on the eastern side of the Site near North Water Street. Approximately 94% of the Site is level, with slopes in the 0-15% range. Approximately 5% of the Site has slopes in the range of 15-25% and 1.5% has slopes greater than 25%. The proposed finished floor elevation (FFE) of Building I is 15'; the FFE of Building J is 14', and the FFE of the commercial building is 12'. The FFE of the amenity area is 14'+

Fill was imported to raise the Project Site from an existing average elevation of six feet above mean sea level to an average elevation of 11 feet or greater. Raising the Project Site in this manner elevated development out of the 100-year

floodplain and provided a “cap” on the remediated Brownfield. The completed Brownfield remediation has brought the site to the approximate proposed grades. A Federal Emergency Management Agency (FEMA) Letter of Map Revision Based on Fill (LOMR-F) map amendment was issued by FEMA in July 2020 indicating that no part of the development area is below the Base Flood Elevation (BFE) of 8’ (refer to PA Attachment I). All development area, including the roads, are at least one foot above BFE.

A Stormwater Pollution Prevention Plan (SWPPP), including standard soil and erosion control measures meeting the requirements of the New York State Department of Environmental Conservation (NYSDEC), is already in place on the Project Site. In other words, NYSDEC State Pollution Discharge Elimination System (SPDES) permit coverage is active on the site. No additional mitigation measures are required or proposed.

SWPPP inspections and reports are performed and issued by the engineer retained for compliance with SWPPP for the current construction on the City portion. Similar action will occur for the Town portion of the site under the supervision of the Town Engineer.

iii. Soils and Geology

Soils on the Project Site are mostly classified as udorthents, which are disturbed soils resulting from fill activities. Based on soil borings, the fill has an average depth of eight feet below the surface. A small area of undisturbed Dutchess-Cardigan Urban land complex soils is found on the eastern side of the Project Site.

Bedrock consists of greywacke, shale and Pelitic rock formations. Bedrock is at the surface and shallow across the eastern boundary of the Site and deepens rapidly toward the River, approaching depths of 30-50 feet.

The site successfully completed the approved actions under a Brownfields Clean-up Agreement and has received a COC indicating compliance with NYSDEC requirements on the entire site, including the City, Town, and riverfront park, including the greenway trail. Specifically, NYSDEC issued a Certificate of Completion pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to The O’Neill Group-Dutton, LLC for a parcel of approximately 11.84 acres located at 1 Dutchess Avenue in the City and Town of Poughkeepsie, Dutchess County including the Town and City Parcels making up the riverfront park in December, 2016 (refer to PA Attachment B). The remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements): Restricted Residential Use, as set forth in 6 NYCRR R 375-1.8 (g) (2) ii, Commercial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iii. Industrial Use, as set forth in 6 NYCRR 375-1.8(g)(2)(iv). Restricted Residential Use is a land use category which is considered for uses where there is common ownership or a managing entity for a site for which there are related restrictions. Restrictions for this land use category prohibit any vegetable gardens with possible community gardens. Restricted residential use permits public, active recreational uses.

Liability limitation was granted as a part of the COC. A similar liability limitation was provided for the riverfront park parcel when it received a COC for completion of the remediation in 2016. An Environmental easement was recorded with the Dutchess County Clerk indicating that the property is part of the Brownfield Clean-up Program. Additional conditions of the COC, which have been satisfactorily completed, include filing of an annual Site Management Periodic Review Report (SMPPR), annual reports to the New York State Division of Taxation, and compliance with the Site Management Plan (SMP).

The SMP provides for management of the site post-COC. It details certain actions and requirements to ensure public safety and confirmation by the State of compliance with the COC. The SMP includes information on the Engineering and Institutional controls (EC/IC) relating to this site. These include annual SMPPR, groundwater monitoring wells, restrictions on use of groundwater and vegetable gardening, and an Excavation Safety Plan (ESP). The ESP provides details on excavation and handling of soils. These include removal of any soils below the demarcation layer during construction, replacement of any soils with certified clean fill, replacement of the demarcation layer and soil cap.

The current 2021 site plan set includes specific site remediation notes on plan sheet G-102. Accordingly, prior site contamination was mitigated by site remediation, which has been completed and is in place as described above, so except for compliance with site management and reporting, no additional mitigation is required.

As described above, a SWPPP, including standard soil and erosion control measures meeting the requirements of the NYSDEC are already in place on the Project Site. In other words, NYSDEC SPDES permit coverage is active on the site. No additional mitigation measures are required or proposed.

SWPPP inspections and reports are performed and issued by the engineer retained for compliance with SWPPP for the current construction on the City portion. Similar action will occur for the Town portion of the site under the supervision of the Town Engineer.

iv. Hydrogeology

Depth to groundwater was obtained from five temporary monitoring wells installed on the Site. Depth to groundwater in areas of fill is at approximately the elevation of the Hudson River, generally four to six feet below the top of the fill layer. Groundwater level data is not available for the undisturbed parts of the Site.

Low level exceedances of the groundwater standard for arsenic have been documented for portions of the Site. Low level exceedances of the groundwater standard for three semi-volatile organic compounds were also documented during a 2007 groundwater sampling event. These are a direct result of prior activities at the Site before the applicant acquired the property.

As described above, the site successfully completed the approved actions under a Brownfields Clean-up Agreement and has received a COC indicating compliance with NYSDEC requirements on the entire site, including the City, Town, and riverfront park,

including the greenway trail. Accordingly, the site Brownfields remediation activity has been completed and will positively impact groundwater quality by the removal of contaminated soil which was the source of the groundwater contamination. As a result of the Project, there will be an increase in pervious area over the former conditions at the Site, which will promote groundwater recharge. After the contaminated soil was removed, the Site was capped with clean fill. Development on the Site will be supplied with potable water from a municipal source. Wastewater will be disposed of in a municipal treatment system. No significant impact to or from groundwater resources is therefore anticipated and no mitigation beyond completion of the NYSDEC approved remediation plan is required.

v. Surface Water and Stormwater Management

Water resources on or near the Site are limited to the Hudson River just to the west of the Site adjoining the parcel of State-owned land, and Kidney Creek, which is conveyed east to west underground through the Site through an existing culvert at approximately the City/Town boundary line. The Hudson River is classified as a Class A stream by the NYSDEC. The Kidney Creek does not appear on the DEC Environmental Resource Mapper, and therefore is not classified. There are no ponds, wetlands, or other water resources on the Site.

Most of the site is located within the 100- and 500-year floodplains of the Hudson River. The 100-year floodplain has a base flood elevation of eight feet. The 500-year floodplain has a flood elevation of 9.7 feet.

The site has been raised by soil import during the Brownfield Remediation process. Following the remediation, the property is at an average elevation of 11 feet above sea level. The development is above the floodplain elevation. . The proposed finished floor elevation (FFE) of Building I is 15'; the FFE of Building J is 14', and the FFE of the commercial building is 12'. The FFE of the amenity area is 14'+.

As described above, a FEMA LOMR-F map amendment was issued by FEMA in July 2020 indicating that no part of the development area is below the Base Flood Elevation (BFE) of 8' (refer to PA Attachment I). All development area, including the roads, are at least one foot above BFE. Thomas Wiacek, the Town of Poughkeepsie Floodplain Administrator, signed the LOMR-F application prepared by the developer acknowledging the elimination of flood hazard due to the fill placement and raising the elevation above flood plain. Mr. Wiacek has determined that no Floodplain development permit is necessary as the property is no longer in the floodplain. The applicant already has received all necessary permits for the City development. The finished floor elevations of the structures will be raised so that they are not within the 100-year flood zone.

The Kidney Creek culvert has been replaced, along with the pipe running to it from North Water Street to the culvert by the River. The replacement pipe and culvert are currently performing according to plans.

The Hudson River shoreline was stabilized as part of the Brownfield remediation. Rip rap was installed along the entire shoreline, including land in the City and in the Town. A Nationwide Permit was issued by the United States Army Corps of Engineers (ACOE) for the work, and it was completed and accepted. A one hundred foot (100') offset to the high water line of the Hudson River is shown on site plan sheet C-103. Calculation of the areas of disturbance within the high water line are also provided on the above-referenced plan.

Stormwater currently drains across the Site to the Hudson River and will continue to do so after completion of the Project. Construction of the Project will involve disturbance of more than one acre and so permit coverage was obtained under the State Pollution Discharge Elimination System (SPDES) via compliance with the NY General Permit for Stormwater Discharges from Construction Activity. As described above, a SWPPP, including standard soil and erosion control measures meeting the requirements of the NYSDEC are already in place on the Project Site. In other words, NYSDEC SPDES permit coverage is active on the site. No additional mitigation measures are required or proposed. SWPPP inspections and reports are performed and issued for compliance with the SWPPP under the supervision of the Town Engineer.

The reduction in impervious area and the implementation of stormwater controls is expected to lead to a reduction in pollutant load to the Hudson River from the Site. Except for ongoing SWPPP compliance, no additional mitigation measures are required or proposed.

vi. Flora and Fauna

Site remediation has been completed. A landscaping plan has been provided as part of the 2021 site plan submission. According to sheet C105 in this submission and based on a view of the site in May 2021, landscaping remains to be completed in the Town of Poughkeepsie portion of the riverfront park. Though some landscaping has been placed to date (trees and mulch), a number of plantings remain to be placed. Until the landscaping is complete, the Town would not issue any certificate of occupancy for the park. This is standard for any development project in the Town.

The subject property is an abandoned industrial site characterized by urban successional plant communities where there was no pavement or buildings. No significant plant communities were identified on the Site, nor were there any endangered, threatened, or rare species.

Similarly, field surveys did not reveal the presence of any significant animal habitats or evidence of endangered, threatened, or rare fauna on the Site. Animal use of the Site was characterized by common urban species.

No submerged aquatic vegetation species were reported to occur on the adjoining parcel of State land by the New York Natural Heritage Program (NYNHP).

Because no significant habitats or species occur on the site, the loss of any existing flora and fauna was not considered to be a significant impact. The new landscaping is likely to

be used by urban or migrant species, especially along the waterfront. No additional mitigation measures are required or proposed.

vii. Traffic and Transportation

The offsite traffic plan and improvements have been adapted from the original plan. The number of units for the entire property has been reduced to 300 units in the City and 84 units in the Town from the originally proposed 584 units. All entry points to the development are from City of Poughkeepsie public streets. Internal driveways within the City portion of the development are being installed. The internal driveways within the Town portion will be reviewed and approved by the Planning Board during the Site Plan approval process.

The Site will be served regionally via U.S. Route 9 and U.S. Route 44 and NYS Route 55. Other key roadways serving the Site include Hoffman Street, Kittredge Place, Albany Street, Main Street, Delafield Street and North Water Street.

Access to the Project Site will be provided via two entrances on Dutchess Avenue and one entrance on North Water Street. All roads within the Project Site will be privately owned and maintained. Internal circulation will occur via a loop road. The City of Poughkeepsie Fire Chief found that the proposed site plan provided adequate maneuverability and circulation for emergency vehicles, noting that having an access point at the north end of the site would enable even better emergency response. The applicant has provided for a potential future connection to the property to the north in order to accommodate this request. Fairview Fire District has acknowledged that this desired connection should not slow this plan review, but remain an active pursuit for the Town. Fairview Fire District has acknowledged that their district will serve this waterfront development and has adequate capacity to do so.

The Site Plan provides space for a possible future emergency access between the Project and the adjoining Vassar property, however a physical connection will not be made unless there is an agreement between Vassar and the applicant, acceptable to the City and Fairview Fire District, assuring access by emergency vehicles through the Vassar property to the Project Site, and through the Project Site to the Vassar property. A connection between the properties is desirable but is not presently necessary for emergency services, as the City and Fairview Fire Chief have determined the access as proposed is acceptable for emergency services. The Planning Board has reviewed emergency access provisions as part of the site plan review process.

The Lead Agency and the applicant jointly investigated the feasibility of providing new direct access from the Site to the US Route 9. However, the New York State Department of Transportation (DOT) advised that such an access is not warranted nor permissible. The applicant conducted a detailed traffic study of the surrounding roadway network. The study also included an assessment of accident data, sight distances and pedestrian access. The study was reviewed by consultants for both the City and the Town and was revised several times during the process. The study assumed a 2015 design year and a background growth rate of 1% per year. The study also took into account potential traffic from recently approved or soon-to-be-approved projects, such as the Hudson Heritage Project.

The study did not take into account potential traffic on Water Street from the Walkway Over the Hudson elevator because such traffic will not coincide with the peak hours of traffic generation from the proposed Project.

The traffic study encompassed 15 intersections in the immediate and near vicinity of the Project Site. The study found that most intersections will continue to operate at acceptable levels of service after Project completion.

New sidewalk is being installed along the south side of Dutchess Avenue in addition to new shade tree plantings along the street, sidewalks along North Water street to the Fallkill Bridge are also installed.

The applicant has provided a memorandum from Maser Consulting, dated 03/02/2021, describing the previously considered pavement marking improvements at the intersection of Fairview Avenue & Cedar Street which have been implemented since the time of the report. It was reported that the intersection is functioning appropriately based on current and projected traffic volumes.

The traffic study and subsequent review made the following recommendations which have been, or will be, implemented (***PA updates are provided in bold, italicized text***):

- Resurface and provide sidewalk improvements and pavement markings on North Water Street from the Children's Museum to Dutchess Avenue. ***Completed by others***
- Reconstruct Dutchess Avenue, including new sidewalks and street trees. ***Completed during Phase One (City portion)***
- Add pavement markings at the Hoffman Street/Albany Street intersection. ***Completed by others***
- Traffic signal actuation and controller replacement, signal timing adjustments, pavement markings and signing at the Hoffman Street/Delafield Street intersection. ***Completed by City***
- Pavement markings at the Main Street/Rinaldi Boulevard intersection. ***Under review due to future development in area***
- Signal timing adjustments and pavement markings at the Fairview Avenue/Cedar Street intersection. ***Pavement markings are installed. Based on March 2, 2021 correspondence and discussion between the applicants traffic engineer, Phillip Grealey, PE, of Maser Consulting and the Planning Board's consultant, Marc Petrero, PE, the Board's consultant, the intersection operates at a level of service B.***
- Potential installation of speed tables on Hoffman Street, Albany Street and Water Street. ***Not required at time of issuance of Certificate of Occupancy for the initial phase of development and no longer requested by the City for these City Streets.***

Improvements to North Water Street and Dutchess Avenue were coordinated with improvements carried out as a result of the Hoffman Street Bridge relocation and completed prior to the rededication of the bridge.

Residential and commercial parking will be constructed in compliance with Town Code requirements and building code requirements for accessible parking.

The riverfront park, a 1,400' linear, three-acre public park has been completed by the applicant, including a paved walkway, landscaping, and access from Dutchess Avenue and within the development with stairways and accessible ramps. The land ownership was transferred from the State Office of General Services via letters Patent to limited liability companies with common ownership to the applicant. There are 0.82 acres within the Town and 2.2 acres within the City. It is anticipated that the City of Poughkeepsie will take ownership of the parcel of riverfront park located in the Town. Until that time, the property owner will continue to own, operate, and maintain this parcel.

Construction traffic will result in short-term, adverse impacts to surrounding roadways and residents. This is an unavoidable adverse impact of the Project; and will be mitigated to some degree by the fact that it will be temporary.

Specific site plan aspects, including but not limited to design, layout, and vehicle and pedestrian access and circulation, including driveways, have been reviewed by the Town Planning Board as part of the site plan review process. No additional mitigation is required or proposed.

viii. Air Resources

The DEIS included an analysis of impacts to air resources from traffic and Project operations. The analysis found that emissions from the Project will not result in an adverse impact to air resources.

Impacts to air resources will occur from soil disturbance during construction. Mitigation measures include:

- Grading and graveling of all roadways along with periodic regrading, compacting and replacement of gravel as needed;
- Daily watering of the roadways as needed;
- Maintenance of a maximum on-site speed limit of 15 mph; and
- Adherence to the soil erosion control plan.

As described above, a SWPPP, including standard soil and erosion control measures meeting the requirements of the NYSDEC are already in place on the Project Site. In other words, NYSDEC SPDES permit coverage is active on the site. No additional mitigation measures are required or proposed.

ix. Cultural Resources

The applicant completed a Phase 1 literature review and archaeology assessment for the Project. The assessment determined that, based upon the significant development and disturbance of the Site, cultural resources are unlikely to be found on the Site. The OPRHP concurred with the conclusions of the report and determined that no additional cultural resource investigations are warranted, and further concluded that the Project will have No Impact on historic or archaeological resources.

x. Visual Character

The proposed development in the Town will have two four-story residential buildings and one single-story commercial buildings for a total of three (3) buildings. This contrasts with the former design (2014) which had seven (7) four-story residential buildings. As indicated in PA Table 2, Impact Comparison Table, the original total building footprint area was 38,008 SF and the current total building footprint is 31,506 SF, a reduction of 6,502 SF or approximately 17 percent. The reduction in the number of buildings opens up the Town property with less building massing. The proposed Town residential buildings will be similar to buildings being constructed within the City providing a harmonious visual effect for the development.

The modified site plan provides for greater views of the Hudson River for future residents of the development. In the previous plan, two four-story buildings were parallel to the riverfront, each 160 feet in length with a 60-foot space between buildings. These buildings were approximately 50 feet from the riverfront park land. In the former plan, residents of the five eastern-most buildings had limited views of the River. In the current plan, one residential building (northern) is perpendicular to the River and the second (southern) is parallel to the River but set back more than 300 feet riverfront park land as shown in PA Figure 3, Site Plan and Figure 4, Building Elevations. The northern residential building is set back approximately 60 feet from the riverfront park land. This design provides for direct views of the River for most of the residential units.

In addition, each residential building will have an outdoor terrace with adjacent indoor community room with wet bar, seating, and game tables on the fourth floor. The northern building has a terrace facing directly west, while the southern building has a terrace at its northern end with views to the north and west. These two open terraces, approximately 1,700 SF in size above the third floor, will provide residents with common space to enjoy unimpeded views of the River from the fourth-floor elevation (see PA Figure 4 – Building Elevations).

The proposed commercial building is one story and will have unimpeded views of the River. Placing this one-story building approximately 55 feet from the waterfront parkland will reduce the visual impact of the development, allowing more open views into the development from pedestrians at the riverfront. The commercial building will include a 3,500 SF roof-top terrace available to both residents and the public.

The Project Site is located adjacent to the Hudson River and is visible from many surrounding viewpoints on both sides of the River. The Site is directly adjacent to the Esopus-Lloyd Statewide Scenic Area of Significance (SASS) and the Estate District SASS. In addition to the Hudson River, scenic areas, or landmarks in the vicinity of the Site include the Walkway Over the Hudson, Marist College and boathouse, Vassar boathouse, Quiet Cove Park, Waryas Park, and the Mid-Hudson Bridge. Visual Character, including a visual impact analysis are discussed in the DEIS, in volume 1, section III.K, which includes text and maps about the viewpoint areas mentioned above.

The revised Project plan will have fewer visual impacts than the original plan because of the reduced number of buildings; reduced total building footprint area; and because the

buildings have been reoriented and set further back from the edge of the Hudson River. The current building layout will be unlikely to block views of the Hudson River from residential neighborhoods to the east as was the case with the original plan. Accordingly, the revised plan has less visual impact than the original plan.

The applicant has revised the architectural character of the proposed buildings in the Town making them similar to the style and architecture used for the City portion of the project. The façade treatment of the proposed buildings is stone, brick, and hardy plank. The Town Planning Board is reviewing the architectural character of the proposed buildings as part of its site plan review. The Planning Board has also reviewed the applicant's lighting plan to ensure that nighttime lighting impacts are minimized.

Since the proposed buildings will be similar in design and architecture to buildings under construction in the City, this approach will create a community with harmonious architectural character.

xi. Demographics

The Project is anticipated to appeal to younger, working, professionals in addition to the retired demographic. It is anticipated that residents will have median household incomes equal to or higher than those in the area. No adverse impacts to demographics are anticipated.

Per the Town Board's findings, dated December 19, 2021, pre-leasing for the buildings nearing completion within the City confirms that the development appeals to younger professionals and "empty nesters" who wish to remain in the Poughkeepsie area and are drawn to the proximity to the train station, the location on the Hudson River, the luxury design and quality of the interiors and amenities of the development.

xii. Fiscal Conditions

The applicant has agreed to pay taxes to the Town at a rate it would pay if standard assessments apply in accordance with Code Chapter 210, Zoning, section 210-21.1 B.(5). The development's effect on jobs and fiscal impacts during construction and once occupied will be similar to those described in the DEIS, FEIS and original Findings Statement.

Per the Town Board's findings, dated December 19, 2021, a fiscal impact analysis was included in the DEIS. The analysis found that the project would have positive fiscal impacts to all taxing jurisdictions. It is anticipated that the downsized project presented in the FEIS still will result in positive fiscal impacts.

The Project will generate construction and operations employment, thus resulting in positive impacts.

xiii. Community Facilities and Services

The Project-related impacts to community resources are unchanged from the Findings from 2012. The demographics for the ultimate residents are similar to that described in the original Findings: young professionals, and “empty nesters.” The demographics are borne out by the current tenants about to occupy the City portion of the development.

The Project Site is served by the Hyde Park Central School District. The school district has capacity for additional children generated by the Project.

The Project is not expected to have significant impacts to police, fire, emergency, solid waste, or recreation services.

The applicant has constructed the riverfront park, including the greenway trail which is substantially completed. Two pools, a clubhouse and outdoor cooking areas are also available for all the development residents, including those in the Town. A second outdoor area with seating and cooking facilities is located with the Town portion of the site.

xiv. Greenhouse Gas Emissions

The Project will result in the emission of greenhouse gases. To mitigate this impact, the applicant proposes to incorporate energy-saving measures into the design and construction of the buildings. Additionally, electric vehicle (EV) charging stations are proposed.

10. Alternatives

The conceptual plan presented, reviewed, and accepted by the Town Board, and the 2021 proposed site plan presented, reviewed, and accepted by the Planning Board, were developed to be consistent with revisions suggested by Town staff and consultants; respond to comments of the Town Board Resolution of denial of the zone change in 2016; and respond to the subsequent Town Board SEQR Findings and WHOD rezoning in January 2020.

Alternatives were explored inclusive of a No Action Alternative, higher density design alternatives, layout alternatives, mixed-use alternatives, alternative housing mix alternatives, and other use alternatives as permitted under the WHOD zoning district. Ultimately, the 2021 proposal presents itself as being the optimal plan.

11. Conclusion and Certification

Having considered the Draft and Final Environmental Impact Statements, the City of Poughkeepsie Common Council Findings; the reasoning set forth in the Town Board's denial; the reasoning set forth in the Town Board's later SEQR Findings and adoption of the WHOD zoning, the Project Assessment and detailed site plan set, the Town of Poughkeepsie Planning Board hereby certifies that:

- A. It has considered the relevant impacts, facts and conclusions disclosed in the DEIS and FEIS; and prior Findings statements;
- B. It has weighed and balanced the relevant environmental impacts with social, economic, and other considerations;
- C. The requirements of 6 NYCRR part 617 have been met;
- D. Consistent with the social, economic, and other essential considerations, from among the reasonable alternatives available, the action to be carried out minimizes or avoids, to the maximum extent practicable, adverse environmental impacts disclosed in the DEIS and FEIS; and
- E. Consistent with the social, economic, and other essential considerations, adverse environmental impacts revealed in the Draft and Final Environmental Impact Statement will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the decision those mitigating measures which were identified in this Findings Statement and the EIS documents.

EXHIBIT B

EXCERPT FROM LEASE AGREEMENT

Section 5.4 Recapture of Agency Benefits.

(a) It is understood and agreed by the parties hereto that the Agency is entering into this Lease Agreement in order to provide financial assistance to the Company for the Facility and to accomplish the public purposes of the Act. In consideration therefor, the Company hereby agrees that if there shall occur a Recapture Event during the Lease Term, the Company shall pay to the Agency, or to the State of New York, if so directed by the Agency (except as otherwise specified below) as a return of public benefits conferred by the Agency, one hundred percent (100%) of the Recaptured Benefits (as defined below).

(b) The term “**Recaptured Benefits**” shall mean all direct monetary benefits, tax exemptions and abatements and other financial assistance, if any, derived solely from the Agency’s participation in the transaction contemplated by the Lease Agreement including, but not limited to, the amount equal to 100% of:

- (i) the Mortgage Recording Tax Exemption; and
- (ii) Sales Tax Exemption savings realized by or for the benefit of the Company, including any savings realized by any Agent pursuant to the Lease Agreement and each Sales Tax Agent Authorization Letter issued in connection with the Facility (the “**Company Sales Tax Savings**”); and

which Recaptured Benefits from time to time shall upon the occurrence of a Recapture Event in accordance with the provisions of subsection (c) below and the declaration of a Recapture Event by notice from the Agency to the Company be payable directly to the Agency or the State of New York if so directed by the Agency within thirty (30) days after such notice.

(c) The term “**Recapture Event**” shall mean any of the following events:

- (1) The occurrence and continuation of an Event of Default under this Lease Agreement (other than as described in clause (4) below or in subsection (e) below) which remains uncured beyond any applicable notice and/or grace period, if any, provided hereunder; or
- (2) The Facility shall cease to be a “project” within the meaning of the Act, as in effect on the Closing Date, through the act or omission of the Company; or
- (3) The sale of the Facility or closure of the Facility and/or departure of the Company from Dutchess County, except as due to casualty, condemnation or force majeure as provided in subsection (e) below or as provided in Section 9.3 hereof; or

(4) Failure of the Company to create or cause to be maintained at least ninety percent (90%) of the number of FTE jobs at the Facility as provided in Section 8.11 of this Lease Agreement, which failure is not reflective of the business conditions of the Company or the subtenants of the Company, including without limitation loss of major sales, revenues, distribution or other adverse business developments and/or local, national or international economic conditions, trade issues or industry wide conditions; or

(5) Any significant deviations from the Project Application Information which would constitute a significant diminution of the Company's activities in, or commitment to Dutchess County, New York; or

(6) The Company receives Sales Tax Savings in connection with the Project Work in excess of the Maximum Company Sales Tax Savings Amount; provided, however, that the foregoing shall constitute a Recapture Event with respect to such excess Sales Tax Savings only. It is further provided that failure to repay the Sales Tax Savings within thirty (30) days shall constitute a Recapture Event with respect to all Recapture Benefits.

(d) Furthermore, notwithstanding the foregoing, a Recapture Event shall not be deemed to have occurred if the Recapture Event shall have arisen as a result of (i) a "force majeure" event (as more particularly defined in Section 10.1(b) hereof), (ii) a taking or condemnation by governmental authority of all or part of the Facility, or (iii) the inability or failure of the Company after the Facility shall have been destroyed or damaged in whole or in part (such occurrence a "Loss Event") to rebuild, repair, restore or replace the Facility to substantially its condition prior to such Loss Event, which inability or failure shall have arisen in good faith on the part of the Company or any of its affiliates so long as the Company or any of its affiliates have diligently and in good faith using commercially reasonable efforts pursued the rebuilding, repair, restoration or replacement of the Facility or part thereof.

(e) The Company covenants and agrees to furnish the Agency with written notification (i) within sixty (60) days of the end of each Tax Year of the number of FTEs located at the Facility for such Tax Year, and (ii) within thirty (30) days of actual notice of any facts or circumstances which would likely lead to a Recapture Event or constitute a Recapture Event hereunder. The Agency shall notify the Company of the occurrence of a Recapture Event hereunder, which notification shall set forth the terms of such Recapture Event.

(f) In the event any payment owing by the Company under this Section shall not be paid on demand by the Agency, such payment shall bear interest from the date of such demand at a rate equal to one percent (1%) plus the Prime Rate, but in no event at a rate higher than the maximum lawful prevailing rate, until the Company shall have made such payment in full, together with such accrued interest to the date of payment, to the Agency (except as otherwise specified above).

(g) The Agency shall be entitled to deduct all reasonable out of pocket expenses of the Agency, including without limitation, reasonable legal fees, incurred in connection with the

recovery of all amounts due under this Section 5.4, from amounts received by the Agency pursuant to this Section 5.4.

(h) Notwithstanding the foregoing, the Board of Directors of the Agency may waive the provisions of this Section in its sole discretion based upon its review of the circumstances of the Company.

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(h) Notwithstanding the foregoing, the Board of Directors of the Agency may waive the provisions of this Section in its sole discretion based upon its review of the circumstances of the Company.

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STATE OF NEW YORK)
) ss.:
COUNTY OF DUTCHESS)

I, the undersigned Assistant Secretary of the Dutchess County Industrial Development Agency, **DO HEREBY CERTIFY:**

That I have compared the annexed extract of minutes of the meeting of the Dutchess County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on May 24, 2022, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of and original insofar as the same related to the subject matters herein referred to.

That the Agency Documents contained in this transcript of proceedings are each in substantially the form presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and that public notice of the time and place of said meeting was only given in accordance with such Article 7.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 24th day of May, 2022.


Name: Ronald J. Piccone, II
Title: Assistant Secretary

[SEAL]

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