



6122 South Park Avenue
Hamburg, New York 14075
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**Hamburg Industrial Development Agency
Board of Directors Meeting
February 16, 2022, 7:30am
Blasdell Village Hall**

Present

Andy Palmer
Tom Moses
Davis Podkulski
Bob Hutchison
Cam Hall – (via zoom)
Janet Plarr
Bob Reynolds

Excused

Wence Valentin

Guests

Jennifer Strong, Neill & Strong
Mary Doran, HIDA
Francesca Bond, Hamburg Sun - Zoom
Andy DeVincentis, Walden/Bayview Road

Executive Director

Sean Doyle

-Pledge of Allegiance

-Roll Call

-Motion to open the board meeting at 7:33am.

Moved: Janet Plarr **Seconded:** Tom Moses
Ayes: Moses, Podkulski, Hall, Palmer, Plarr, Reynolds, Hutchison
Nays: none
Carried

-Motion to approve the January 2022 board meeting minutes

Moved: Bob Hutchison **Seconded:** Andy Palmer
Ayes: Moses, Podkulski, Hall, Palmer, Plarr, Reynolds, Hutchison
Nays: none
Carried

Treasurer, Bob Reynold's gave an update on the financials. Interest earnings of \$126.24, expenses this month totaled \$17,089.12 which resulted in a loss of \$16,962.88. Balance on the accounts is \$1,048,052.23.

-Motion to approve the January 2022 Treasurer Report

Moved: Bob Hutchison **Seconded:** Andy Palmer
Ayes: Moses, Podkulski, Hall, Palmer, Plarr, Reynolds, Hutchison
Nays: none
Carried

To accommodate a board member, Doyle rearranged the agenda and began with New Business will give his Director update at the end.

Annual Meeting – Committee Assignments

-Motion to elect the Executive Committee members as follows; Robert Hutchison, Chair; Janet McGregor-Plarr, Vice Chair; Cameron Hall, Secretary and Robert Reynolds, Treasurer for a term ending January 17, 2023.

Moved: Andy Palmer **Seconded:** Davis Podkulski
Ayes: Moses, Podkulski, Hall, Palmer, Plarr, Reynolds, Hutchison
Nays: none
Carried

-Motion to elect Audit committee members as follows; Hutchison, Podkulski and Reynolds to the committee for a term ending January 17, 2023.

Moved: Janet Plarr **Seconded:** Tom Moses
Ayes: Moses, Podkulski, Hall, Palmer, Plarr, Reynolds, Hutchison
Nays: none
Carried

-Motion to elect Governance Committee members as follows; Hall, Hutchison and Podkulski to the committee for a term ending January 17, 2023

Moved: Janet Plarr **Seconded:** Bob Reynolds
Ayes: Moses, Podkulski, Hall, Palmer, Plarr, Reynolds, Hutchison
Nays: none
Carried

-Motion to elect Finance committee members as follows; Hutchison, Reynolds and McGregor-Plarr to the committee for a term ending January 17, 2023

Moved: Andy Palmer **Seconded:** Davis Podkulski
Ayes: Moses, Podkulski, Hall, Palmer, Plarr, Reynolds, Hutchison
Nays: none
Carried

Newspaper Designation

RESOLVED, that the Hamburg Industrial Development Agency Board designate *The Hamburg Sun* and *The Buffalo News* as official newspapers for the Hamburg Industrial Development Agency for the year 2022.

Moved: Bob Hutchison **Seconded:** Andy Palmer
Ayes: Moses, Podkulski, Hall, Palmer, Plarr, Reynolds, Hutchison
Nays: none
Carried

Reminder to the board annual sexual harassment training is required by law for all board members. Training thru current employer is acceptable forward the HIDA proof of completion. If that is not an option, contact us and we will forward you a link to a training course.

Doyle read the following resolution to the board:

RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY CONSENTING TO A PREVIOUS MORTGAGE GIVEN BY BILLY-LEE, L.L.C.

WHEREAS, the Town of Hamburg Industrial Development Agency (the "Agency") by resolution adopted on December 27, 2019, as extended on December 17, 2020; May 20, 2021 and On January 12, 2022 induced Billy-Lee, L.L.C. (the "Lessee") for assistance by the Agency including mortgage tax abatement, sales tax exemption on any materials and/or equipment purchased for incorporation into Project and real property tax abatement in accordance with existing Agency Uniform Tax Exemption Policy and Guidelines, as amended, with respect to a lease with mortgage or lease only transaction for the construction of an approximately 10,000 square foot addition to an existing building located at 4760 Camp Road, Hamburg, New York, by the Lessee, as Agent for the Agency, for lease to the Agency and subsequent Leaseback to the Lessee. The Lessee will be the sole occupant, all for the provision of a fire truck manufacturing Facility (the "Project"); and

WHEREAS, as part of the due diligence in moving the Project towards closing, it was revealed that the Lessee was a party to a Mortgage with LEE VAN LEAVEN in the amount of \$999,500.00 dated June 11, 2020 which exceeds the \$600,000.00 mortgage amount approved by the Agency;

WHEREAS, Lessee closed this Mortgage without the consent or involvement of the Agency and therefore did not utilize the available mortgage tax abatements;

WHEREAS, the Lease and Leaseback Agreements currently in place between the Lessee and the Agency require Agency consent prior to Lessee mortgaging the leased property; and

WHEREAS, in order to correct these errors by the Lessee the Agency must now consent to the previous execution and delivery by the Lessee of a Mortgage in the principal amount of \$999,500.00 to LEE VAN LEAVEN (the "Mortgage").

NOW, THEREFORE, BE IT RESOLVED BY THE AGENCY AS FOLLOWS:

- 1. The Agency does hereby consent to the \$999,500.00 Mortgage dated June 11, 2020 between the Lessee and Lee Van LEAVEN, to which mortgage tax abatements were not used.*
- 2. This resolution shall take effect immediately.*

Plarr is opposed to the resolution, stated the board has given them plenty of opportunities.

Palmer stated we approved an extension (without additional benefits) thru March 2022 at the January 2022 board meeting. If this helps getting it closed he is in favor.

Attorney Strong stated they are working diligently to get it to closing.

Bob Reynolds asked why they were not at the board meeting this morning to plead their case.

Plarr additionally stated we are working and following rules and they should be following the rules too. We are stewards of tax payer dollars.

Doyle stated our job is expansion and retention of employment. He asked attorney Strong what kind of guidance offer attorney wise etc? Strong stated we cannot recommend attorneys.

After the discussion Board agreed part of the process is to get to the extension granted thru March 16, 2022.

-Motion to approve the above resolution consenting to a previous mortgage given by Billy Lee, LLC.

Moved: Davis Podkulski **Seconded:** Andy Palmer

Ayes: Moses, Podkulski, Hall, Palmer, Hutchison

Nays: Plarr, Reynolds

Carried

Doyle read the following resolution to the board:

RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") FURTHER EXTENDING THE SALES TAX PERIOD UNTIL AUGUST 16, 2022 FOR BAYVIEW ROAD ASSOCIATES, LLC (THE "LESSEE") TO CONSTRUCT A 181,500 SQUARE FOOT WAREHOUSE ON A 57.914 ACRE PARCEL OF LAND OWNED BY THE LESSEE LOCATED AT THE CORNER OF LAKESHORE AND BAYVIEW ROADS IN THE TOWN OF HAMBURG, AS AGENT FOR THE AGENCY FOR LEASE TO THE AGENCY AND SUBSEQUENT LEASEBACK TO THE LESSEE FOR SUB-SUBLEASE TO AMAZON.COM SERVICES LLC (THE "SUBLESSEE") WHO WILL BE THE SOLE OCCUPANT OF THE FACILITY ALL FOR A WAREHOUSING AND DISTRIBUTION FACILITY, AND TO TAKE OTHER PRELIMINARY ACTION.

WHEREAS, the Town of Hamburg Industrial Development Agency by resolution adopted on February 16, 2021 as amended on June 16, 2021 induced the Lessee and the Sublessee to receive Agency assistance with respect to the construction and equipping by the Agency through a lease with mortgage or lease only transaction of a commercial warehouse and distribution facility on a 57.914 acre parcel of land located the corner of Lakeshore and Bayview Roads already owned by the Lessee, in Hamburg, New York and the construction of an approximately 181,500 square foot building therein, by the Lessee, as Agent for the Agency, for lease by the Lessee to the Agency for leaseback by the Agency to the Lessee for sub-sublease to Amazon.com Services LLC, (the "Sublessee") who will be the sole occupant of the facility, all for the provision of a warehousing and distribution Facility (the "Project"); and

WHEREAS, there has been delay, due to the COVID-19 Pandemic, in constructing and equipping the Project; and

NOW, THEREFORE, BE IT RESOLVED BY THE AGENCY AS FOLLOWS:

- 1. The Agency does hereby extend the inducement period and the sales tax period for the Lessee and Sublessee from February 16, 2022 to **August 16 2022** with no extension fee.*
- 2. This resolution shall take effect immediately.*

-Motion to approve the above resolution granting an extension to Bayview Road Associates, LLC thru August 16, 2022.

Moved: Andy Palmer **Seconded:** Janet Plarr

Ayes: Moses, Podkulski, Hall, Palmer, Hutchison, Plarr, Reynolds

Nays: none

Carried

Doyle read the following resolution to the board:

RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED NEW YORK MORTGAGE AND SECURITY AGREEMENT (INCLUDES FIXTURE FILING), ASSIGNMENT OF RENTS AND LEASES, AND AN ESTOPPEL CERTIFICATE IN THE PRINCIPAL AMOUNT OF \$40,000,000.00 AND OTHER SECURITY DOCUMENTS REQUIRED IN CONNECTION WITH IN THE REFINANCING OF THE 2021 BAYVIEW ROAD ASSOCIATES, LLC PROJECT

WHEREAS, the Town of Hamburg Industrial Development Agency (the "Agency") by resolutions adopted on February 16, 2021 and on June 16, 2021 (the "Inducement Resolution") with respect to the construction and equipping by the Agency through a lease with mortgage or lease only transaction of a commercial warehouse and distribution facility on a 66.90 acre parcel

of land located the corner of Lakeshore and Bayview Roads already owned by the Lessee, in , Hamburg, New York and the construction of an approximately 181,500 square foot building therein, by the Lessee, as Agent for the Agency, for lease by the Lessee to the Agency for sublease to the Lessee for sub-sublease to Amazon.com Services LLC, (the "Sublessee") who will be the sole occupant of the facility, all for the provision of a warehousing and distribution Facility (the "Project"); and

WHEREAS, pursuant to such Inducement Resolution, the Agency acquired a leasehold interest in the Facility pursuant to a certain Lease to Agency, dated as of June 1, 2021, between Bayview Road Associates, LLC as lessor, and the Agency, as lessee, (the "Lease to Agency") and leased the Facility back to Bayview Road Associates, LLC pursuant to a certain Leaseback Agreement, dated as of June 1, 2021, between the Agency, as lessor, and Bayview Road Associates, LLC, as lessee, (the "Leaseback Agreement"); and

WHEREAS, the Agency has now received a request for the Agency's consent to the execution and delivery by the Agency of an Amended and Restated New York Mortgage And Security Agreement (Includes Fixture Filing), Assignment Of Rents And Leases, and an Estoppel Certificate in the principal amount of \$40,000,000.00 to Protective Life Insurance Company, by Bayview Road Associates, LLC and the Agency and approved by an appropriate officer of the Agency (the "Mortgages"); and

WHEREAS, the Lessee is only seeking Agency consent and is not seeking any additional Agency benefits; and

WHEREAS, the facility will remain a warehouse and distribution facility; accordingly, there will be no change in the Payment in Lieu of Taxes ("PILOT") provisions attached as Exhibit C to the Leaseback Agreement; and

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

Section 1. The Agency hereby consents to and authorizes the execution and delivery of an Amended and Restated New York Mortgage And Security Agreement (Includes Fixture Filing), Assignment Of Rents And Leases, and an Estoppel Certificate in the principal amount of \$40,000,000.00 to Protective Life Insurance Company, by Bayview Road Associates, LLC and the Agency with respect to the Lease to Agency and the Leaseback Agreement and other ancillary documents required to be executed, if any, in connection therewith.

Section 2. The Agency determines that the PILOT provisions shall remain unchanged as there is no change in use or in the occupancy of the Facility.

Section 3. The Chairman, Vice Chairman, Treasurer, Secretary, Assistant Secretary, Executive Director or other officer of the Agency are hereby authorized to execute and deliver the Agreements, and such other agreements as may be desirable or required in connection with the re-financing of such transaction. The execution and delivery of each such agreement by said officer shall be conclusive evidence of due authorization and approval.

Section 4. The Chairman, Vice Chairman, Treasurer, Secretary, Assistant Secretary, Executive Director or other officer of the Agency are hereby designated the authorized representative of the Agency, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits or other documents to do and cause to be done any and all acts and things necessary or proper for the carrying out of this resolution.

Section 5. Bayview Road Associates, LLC, agrees that it will pay all Agency Administrative Fees and legal fees due at closing.

Section 6. This resolution shall take effect immediately.

Adopted: February 16, 2022

-Motion to approve the above resolution for Bayview Road Associates, LLC consent to refinance.

Moved: Bob Reynolds **Seconded:** Bob Hutchison
Ayes: Moses, Podkulski, Hall, Palmer, Hutchison, Plarr, Reynolds
Nays: none
Carried

Additionally, the board commented on how nicely the project is moving along and the beautiful landscaping that was completed. It was also mentioned that although the project has tax abatement they still pay the special district taxes at 100% which includes fire, sewer and highway.

The board would like to take another tour of the facility. Andy DeVincentis, who was in attendance, was absolutely agreeable and will try to set it up for the 1st week in March.

Doyle read the following resolution to the board:

**RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
CONSENTING TO A CONSOLIDATED, AMENDED AND RESTATED FEE AND LEASEHOLD
MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE
FILING IN AN AMOUNT NOT TO EXCEED \$51,034,116 AND THE EXECUTION BY THE AGENCY
OF AN ESTOPPEL CERTIFICATE IN CONNECTION WITH IN THE REFINANCING OF THE 2015
JR FORT COLLINS, L.L.C. PROJECT**

WHEREAS, to accomplish the purposes of the Act, the Agency induced JDC Hamburg, L.L.C., a limited liability company with common ownership with the Lessee to commence with the acquisition and equipping by the Agency through a lease with mortgage or lease only transaction of a warehousing and distribution facility consisting of the purchase of an approximately 50 acre parcel of land located at Bayview Road and Route 5 in the Town of Hamburg, the construction of an approximately 317,148 square foot warehouse/distribution facility thereon and the construction and installation of the required infrastructure including, but not limited to a road, sewers, parking lot, lighting, detention ponds, and site work by the Lessee as agent for the Agency, for lease to the Agency and sublease back to the Lessee for sub-sublease to FedEx Ground Package System, Inc. (the "Sublessee"), all for a ground shipping warehousing and distribution facility (the "Project), and in furtherance of said purpose the Agency adopted its Inducement Resolution on September 19, 2014 authorizing the Project which resolution was amended by resolution adopted on March 24, 2015 to substitute the JR Fort Collins, L.L.C. as the Lessee in place of JDC Hamburg, L.L.C. and to increase the Project Cost and the authorized amount of the Mortgage; and

WHEREAS, pursuant to such Inducement Resolution, the Agency acquired a leasehold interest in the Facility pursuant to a certain Lease to Agency, dated as of March 1, 2015, between JR FORT COLLINS, L.L.C. as lessor, and the Agency, as lessee, (the "Lease to Agency") and leased the Facility back to JR FORT COLLINS, L.L.C. pursuant to a certain Leaseback Agreement, dated as of March 1, 2015, between the Agency, as lessor, and JR FORT COLLINS, L.L.C., as lessee, (the "Leaseback Agreement");

WHEREAS, JR FORT COLLINS, L.L.C. assigned its interests to MREIC BUFFALO NY, LLC and the Agency and MREIC BUFFALO NY, LLC entered into a Lease Amendment and Assignment and Assumption Agreement dated as of October 17, 2016;

WHEREAS, MREIC BUFFALO NY, LLC, will soon undergo a name change to MOUNTAIN BUFFALO LLC; to be accomplished by filing a certificate of name change with the Delaware Secretary of State;

WHEREAS, the Agency has now received a request for the Agency's consent to the execution and delivery by MREIC BUFFALO NY, LLC soon to be known as MOUNTAIN BUFFALO LLC, of a Consolidated, Amended and Restated Fee and Leasehold Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing in an amount not to exceed \$51,034,116 to CITI REAL ESTATE FUNDING INC.; UBS AG; BANK OF AMERICA, N.A.; BANK OF MONTREAL, and MORGAN STANLEY BANK, N.A. (the "Mortgage");

WHEREAS, MREIC BUFFALO NY, LLC soon to be known as MOUNTAIN BUFFALO LLC is requesting that the Agency sign an Estoppel Certificate in regard to the proposed refinancing;

WHEREAS, MREIC BUFFALO NY, LLC soon to be known as MOUNTAIN BUFFALO LLC, is not requesting an additional benefits from the Agency and is only seeking the consent of the Agency of its proposed refinance; and

WHEREAS, the facility will remain a warehouse and distribution facility; accordingly, there will be no change in the Payment in Lieu of Taxes ("PILOT") Provisions attached as Exhibit C to the Leaseback Agreement.

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

Section 1. The Agency hereby consents to the execution and delivery of a Consolidated, Amended and Restated Fee and Leasehold Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing between MREIC BUFFALO NY, soon to be known as Mountain Buffalo LLC, with respect to the Lease to Agency and the Leaseback Agreement, as amended.

Section 2. The execution and delivery of an Estoppel Certificate in the form approved by the Chairman, Vice Chairman, Executive Director or Assistant Secretary is hereby authorized. The appropriate officers of the Agency are hereby authorized to

execute, seal, acknowledge and deliver such Certificate. The execution and delivery of the Estoppel Certificate shall be conclusive evidence of due authorization and approval.

Section 3. The Agency determines that the PILOT provisions shall remain unchanged as there is no change in use or in the occupancy of the Facility.

Section 4. MREIC BUFFALO NY, LLC, soon to be known as MOUNTAIN BUFFALO LLC, agrees that it will pay all Agency Administrative Fees and legal fees due at closing.

Section 5. This resolution shall take effect immediately.

-Motion to approve the above resolution consent to refinance the JR Fort Collins, LLC Project (Fed Ex site on Bayview Road).

Moved: Janet Plarr **Seconded:** Andy Palmer
Ayes: Moses, Podkulski, Hall, Palmer, Hutchison, Plarr, Reynolds
Nays: none
Carried

Janet stated she would like to see the employment number for Fed Ex it is always busy over there. We should have the job numbers from projects like these available as they are good talking points.

-Motion to appoint Patrick Shea, Town of Hamburg Director of Finance, to CFO of the HIDA.

Moved: Andy Palmer **Seconded:** Bob Reynolds
Ayes: Moses, Podkulski, Hall, Palmer, Hutchison, Plarr, Reynolds
Nays: none
Carried

Annual Review of Policies and Bi-Laws:

-Motion to re-adopt the Town of Hamburg Industrial Development Agency by-laws as written February 16, 2022.

Moved: Bob Reynolds **Seconded:** Bob Hutchison
Ayes: Moses, Podkulski, Hall, Palmer, Hutchison, Plarr, Reynolds
Nays: none
Carried

-Motion to re-adopt the Town of Hamburg Industrial Development Agency Governance Committee Charter as written February 16, 2022.

Moved: Bob Reynolds **Seconded:** Bob Hutchison
Ayes: Moses, Podkulski, Hall, Palmer, Hutchison, Plarr, Reynolds
Nays: none
Carried

-Motion to re-adopt the Town of Hamburg Industrial Development Agency Finance Committee Charter as written February 16, 2022.

Moved: Bob Reynolds **Seconded:** Andy Palmer
Ayes: Moses, Podkulski, Hall, Palmer, Hutchison, Plarr, Reynolds
Nays: none
Carried

-Motion to re-adopt the Town of Hamburg Industrial Development Agency Audit Committee Charter as written February 16, 2022.

Moved: Davis Podkulski **Seconded:** Janet Plarr
Ayes: Moses, Podkulski, Hall, Palmer, Hutchison, Plarr, Reynolds
Nays: none
Carried

-Motion to amend the Town of Hamburg Industrial Development Agency Investment Policy and include Upstate Bank then readopt as written February 16, 2022.

Moved: Bob Reynolds **Seconded:** Janet Plarr
Ayes: Moses, Podkulski, Hall, Palmer, Hutchison, Plarr, Reynolds
Nays: none
Carried

-Privilege of the Floor – no comments

Executive Director Update:

-Doyle stated the HIDA has been looking into different board software programs to help alleviate some of the paper and better organize the board. Frontier school uses BoardDocs, he asked Podkulski's opinion. Podkulski said it is nice to have everything in one place, but not sure if it is worth the cost for a board as small as ours. The board was in agreement. Better utilization of shared drives could also be a solution. Janet suggested having more professional growth opportunities available to board members.

Cam Hall left the meeting at 8:30am.

-Doyle stated he completed an application with a broker for board insurance. Janet Plarr suggested contacting Comp Alliance, designed specifically for NYS schools and municipalities.

-Waiting on Town Board for the appointment of new board member (replacement of Norma Rusert-Kelly) it should be on agenda at their next meeting.

-Doyle met with NY Governor's office WNY lead Joan Kesner on February 14th. It was a productive meeting she offered her support and they discussed the modifications made to our Local Labor Policy.

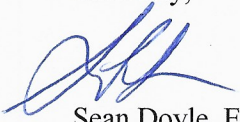
-New Executive Committee – will get dates out and meeting schedule for calendars.

-UTEP, new policy will be discussed at March meeting.

-Motion to adjourn at 8:35am

Moved: Andy Palmer **Seconded:** Davis Podkulski
Ayes: Moses, Podkulski, Plarr, Palmer, Valentin
Nays: none
Carried

Sincerely,

A handwritten signature in blue ink, appearing to read 'SD', is positioned above the printed name.

Sean Doyle, Executive Director