



6122 South Park Avenue
Hamburg, New York 14075
716.648.4145
www.HamburgIDA.com

**Hamburg Industrial Development Agency
Board of Directors Meeting
MEETING AGENDA
Wednesday, April 20, 2022, 7:30 AM
Blasdell Village Hall, Court Room, 121 Miriam Avenue, Blasdell, New York**

Join Zoom Meeting

<https://us02web.zoom.us/j/86061107104?pwd=Q1pNN3ltYVZrWU04eGRrRXBUZlMUT09>

Meeting ID: 860 6110 7104

Passcode: 17045

One tap mobile

+19292056099,,86061107104#,,,,*17045# US (New York)

Dial by your location

+1 929 205 6099 US (New York)

1. Roll Call
2. Reading and Approval of March 2022 Minutes
3. Report of the Treasurer
 - March Treasurer report
 - 2021 Audit
4. Executive Director Update

New Business

- Last of the Agency Policies to Review for 2022:
 - Real Property Acquisition Policy
 - Access or Agency Records
 - Combined Fee Schedule
 - Data Gathering Procedure
 - Employee Compensation Program
 - Recapture Policy
- Mary Doran – Employment Agreement Amendment
- 290 Lake Street Holdings – Inducement Resolution

If you would like an updated policy book bring your book to the meeting and Mary will update and return to you. (Recently updated policies include: Local Labor Policy, Investment Policy and UTEP).

Unfinished Business

- HIDA Sexual Harassment Training – proof of training to Mary
- BILLY – LEE, LLC

5. Privilege of the Floor
6. Executive Session
7. Adjournment

Next meeting: May 18, 2022, 7:30 AM Blasdell Village Hall



Unapproved/draft
(BOD motion for approval at 4/20/22 meeting)

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**Hamburg Industrial Development Agency
Board of Directors Meeting
March 16, 2022, 7:30am
Blasdell Village Hall**

Present

Andy Palmer
Tom Moses
Davis Podkulski
Bob Hutchison
Cam Hall
Janet Plarr
Bob Reynolds

Excused

Wence Valentin

Guests

Jennifer Strong, Neill & Strong
Mary Doran, HIDA
Francesca Bond, Hamburg Sun - Zoom
Steve Savage, Billy Lee/E-One

Executive Director

Sean Doyle

-Pledge of Allegiance

-Roll Call

-Motion to open the board meeting at 7:34am.

Moved: Tom Moses

Seconded: Andy Palmer

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

Nays: none

Carried

-Motion to approve the February 2022 board meeting minutes

Moved: Bob Reynolds

Seconded: Cam Hall

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

Nays: none

Carried

Treasurer, Bob Reynold's gave an update on the financials. First he gave a brief recap of 2021 – payroll was greater than expected however the overall variance for the year was positive. Six projects from 2021 have not yet closed, based on this expected to meet revenue in 2022. February's income totaled \$5,742.41. Expenses for the month included payroll \$10,202.21 and office expenses of \$510.92 which generated a loss of \$5,190.06. Balance on the accounts is \$1,042,862.17.

-Motion to approve the February 2022 Treasurer Report

Moved: Bob Hutchison

Seconded: Janet Plarr

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

Nays: none

Carried

Executive Director Update:

- Thanks to Executive Assistant, Mary Doran, the HIDA billed and collected \$696,045.98 in PILOT payments for 2022. The figure includes both county and town taxes. The annual surveys were also mailed out and almost all returned. The 2021 audit is currently with the auditor, Allied Financial, formerly Amato Fox. We expect it to be completed any day now. All of the information will be rolled up into the PARIS report which is due by March 31st. The audit will be distributed to the Audit Committee for approval and all of the information will be available for board members to review.
- At the last board meeting Janet Plarr inquired about the employment numbers at the Fed Ex facility as there is always so much activity at the site. Doyle reported their 2014 HIDA application with facility completion date of 2016 committed to 25FT and 127PT employees. By 2020 they were estimating 43FT and 126PT. Upon return of their 2021 annual survey in February they currently have 372FT employees obviously, exceeding expectations.
- CD rates are up just waiting for account numbers and as previously discussed will transfer monies into CDs.
- General project activity, Doyle has had initial conversations with several companies still in planning stages.
- CARES Grant, monies will be available for distribution by the end of the month. Currently Doyle has 8 small businesses with applications in the pipeline. After monies are distributed recipients will be required to report on labor for 1 year.
- Doyle and attorney, Strong, meet with a local not-for-profit regarding bond financing.
- Marketing, Doyle will review with the Executive Committee a proposal to keep in-house before presenting to the board in April.
- Doyle discussed the recent board lunch meeting and tour at BOCES (the beneficiary of the revised Local Labor Policy) which was attended by Doyle, Plarr, Hutchison and Reynolds. They were all in agreement it was a great afternoon. The amount of programming that goes on there is impressive with day classes for students and evening classes for adults. Reynolds suggested putting together an informational packet/fact sheet on BOCES for companies the HIDA is involved with to inform them of the resources available.
- Directors and Officers Insurance – Doyle has been researching. The current proposal excludes companies that grant tax incentives, would obviously need to negotiate that out. Board discussed if the insurance is really “necessary” as the board is covered under the Town of Hamburg’s policy after a large deductible. This would essentially be “gap coverage”. Attorney Strong, said in this day and age you can never have enough coverage. Doyle will go back to the agent.

Doyle read the following resolution to the board:

RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY CONFIRMING ITS POLICIES

WHEREAS, the Town of Hamburg Industrial Development Agency has conducted an annual review of its existing policies.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS THAT:

1. The HAMBURG IDA hereby confirms and re-adopts the following existing policies:

- *Code of Ethics and Conflict of Interest Policy*
- *Defense/Indemnification of Officers & Employees Policy*
- *Financial Disclosure Policy*
- *Investment Policy*
- *Travel Policy*
- *Procurement Policy*
- *Reimbursement and Attendance Policy*

- °Property disposal guidelines
- °Whistleblower policy
- °Sexual harassment policy
- °Sexual harassment complaint form

2. Said policies will remain posted on the official website; and
3. This resolution shall take effect immediately.

-Motion to approve the re-adoption of the above policies

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

Doyle read the following resolution to the board:

**RESOLUTION OF THE HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
 (“AGENCY”) ADOPTING AN AMENDED AND RESTATED COUNTYWIDE
 INDUSTRIAL DEVELOPMENT AGENCY UNIFORM TAX EXEMPTION POLICY
 (“UTEP”)**

WHEREAS, New York State General Municipal Law (“GML”) Section 874(4) requires that every Industrial Development Agency adopt a UTEP to establish guidelines for the provision by an Agency for real property tax, mortgage tax, and sales and use tax exemptions; and

WHEREAS, in 2001, a Countywide Industrial Development Agency UTEP was established and adopted for use by the industrial development agencies in Erie County (the Town of Amherst Industrial Development Agency, the Town of Clarence Industrial Development Agency, the Town of Concord Industrial Development Agency, the Town of Hamburg Industrial Development Agency, the Town of Lancaster Industrial Development Agency and the Erie County Industrial Development Agency, collectively, the "IDAs") and entitled the Countywide Industrial Development Agency Uniform Tax Exemption Policy ("Countywide Policy"); and

WHEREAS, the IDAs have determined that it is in the best interest of the IDAs and the residents of Erie County and the various Towns, Villages and Schools within the jurisdiction of the IDAs to amend and restate the Countywide Policy, in its entirety, to ensure consistency and compliance with the GML and to ensure efficient ease of use for IDA Financial Assistance recipients; and

WHEREAS, officials and staff from the IDAs have jointly drafted an Amended and Restated Countywide Industrial Development Agency Uniform Tax Exemption Policy, that amends and restates in its entirety the Countywide Policy (hereinafter, the "Amended and Restated Countywide UTEP"), and in this effort, have considered the following issues as so related thereto, all as required by the GML: (i) the extent to which a project will create or retain permanent private sector jobs; (ii) the estimated value of any tax exemptions to be provided; (iii) whether affected taxing jurisdictions shall be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided; (iv) the impact of a proposed project on existing and proposed business and economic development projects in the vicinity; (v) the amount of private sector investment generated or likely to be generated by the proposed project; (vi) the demonstrated public support for a proposed project; (vii) the likelihood of accomplishing the proposed project in a timely fashion; (viii) the effect of the proposed project upon the environment; (ix) the extent to which the proposed project will require the provision of additional services; and (x) the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts (collectively, items (i) through (x), hereinafter referred to as "UTEP Considerations"); and

WHEREAS, on January 18, 2022, the Agency provided written notification to the affected tax jurisdictions of, and provided the contemplated draft Amended and Restated Countywide UTEP to, the affected tax jurisdictions, as so required by the GML, and

WHEREAS, on January 27, 2022, the Erie County Industrial Development Agency hosted a Zoom/video/telephonic informational meeting attending by the IDAs and various affected tax jurisdictions whereat the draft Amended and Restated Countywide UTEP was presented and discussed; and

WHEREAS, on March 16, 2022, the Agency reviewed and discussed the draft Amended and Restated Countywide UTEP; and

WHEREAS, attached hereto within Exhibit A is the proposed Amended and Restated Countywide UTEP; and

WHEREAS, the Agency, having considered all comments received from the affected tax jurisdictions, now desires to adopt the proposed Amended and Restated Countywide UTEP.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The Agency hereby determines that the adoption of the proposed Amended and Restated Countywide UTEP is a Type II Action within the meaning of the State Environmental Quality Review Act ("SEQR") and therefore no further actions under SEQR need be undertaken by the Agency.

Section 2. The Agency hereby adopts the Amended and Restated Countywide UTEP which is set forth within Exhibit A attached hereto,

Section 3. The Agency, acting by and through its Chair, Vice Chair, Secretary, Assistant Secretary, or any other designated officer or director, is hereby authorized to do all things necessary or appropriate for the accomplishment of the purposes of this resolution, and all acts heretofore taken by the Agency with respect to the Amended and Restated Countywide UTEP are hereby approved, ratified and confirmed,

Section 4. This Amended and Restated Countywide UTEP shall be effective on April 1, 2022 (the "Effective Date") and shall apply to all projects for which the Agency has adopted or adopts an Inducement Resolution after the Effective Date.

Dated: March 16, 2022

-Motion to adopt the amended and restated countywide industrial development agency uniform tax exemption policy ("UTEP").

Moved: Andy Palmer

Seconded: Cam Hall

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

Nays: none

Carried

Board briefly discussed the new worksheet and its structured approach to tax abatement benefits it's a defined metric for all agencies to follow and special projects still have the option of PILOT deviation.

-Doyle reminded the board to complete their yearly sexual harassment training as required by New York State and send completed certificates to Mary.

Doyle read the following resolution to the board:

RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY EXTENDING THE INDUCEMENT PERIOD AND THE SALES TAX PERIOD FOR BILLY-LEE, LLC PROJECT, UNTIL May 18, 2022.

WHEREAS, the Town of Hamburg Industrial Development Agency (the "Agency") by resolution adopted on December 27, 2019, as extended on December 17, 2020 and extended May 20, 2021 and extended January 12, 2022 induced Billy-Lee, LLC (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, there has been delay by the Applicant in closing 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 from December 17, 2021 to May 18, 2022 and charges an extension fee of \$682.74.
2. This resolution shall take effect immediately.

-Motion to approve the above resolution extending the inducement period and the sales tax period for Billy-Lee, LLC Project, until May 18, 2022.

Moved: Bob Reynolds **Seconded:** Bob Hutchison

Steve Savage from Billy Lee, LLC spoke on behalf of the project stating there are 2 main issues:

1. Loss of his father Bill Savage who had the capacity/authority to act on behalf of the landlord and the company.
2. Insurance as required by the agency.

Their current resolution expires today, Doyle would like to identify a path to support this project – recapture imposes financial stress to a large Hamburg employer. He proposed only doing sales tax abatement.

The board discussed, attorney Strong stated a new application would need to be completed requesting just the sales abatement.

Palmer stated he is against giving this project any more extensions.

Plarr made a motion to change the date on the resolution, board decided to go into Executive Session to discuss further.

-Motion to go into Executive Session for Attorney client privilege at 8:40am.

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

-Motion to come out of Executive Session for Attorney client privilege at 8:59am.

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

Doyle discussed the following amended resolution noting two major changes in red. Extension date was changed until April 21, 2022 and Billy Lee, LLC must submit their new application by March 24, 2022.

RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY EXTENDING THE INDUCEMENT PERIOD AND THE SALES TAX PERIOD FOR BILLY-LEE, LLC PROJECT, UNTIL April 21, 2022.

WHEREAS, the Town of Hamburg Industrial Development Agency (the "Agency") by resolution adopted on December 27, 2019, as extended on December 17, 2020 and extended May 20, 2021 and extended January 12, 2022 induced Billy-Lee, LLC (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, there has been delay by the Applicant in closing 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 from December 17, 2021 to April 21, 2022 and charges an extension fee of \$682.74.*
- 2. Applicant must submit revised application to Hamburg IDA by March 24, 2022.*
- 3. This resolution shall take effect immediately.*

ADOPTED: March 16, 2022

-Motion to approve the amended resolution as stated above roll call vote:

Ayes: Plarr – aye, Moses – aye, Reynolds – aye, Hall – aye, Hutchison – aye, Podkulski – aye

Nays: Palmer – nay

Carried

-Privilege of the Floor – no comments

-Motion to adjourn at 8:59am

Moved: Bob Hutchison **Seconded:** Andy Palmer

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

Nays: none

Carried

Sincerely,

Sean Doyle, Executive Director

Next meeting: April 20, 2022, 7:30AM Blasdel Village Hall

Town of Hamburg Industrial Development Agency

04/08/22

Treasurer's Report

Accrual Basis

As of March 31, 2022

	Mar 31, 22	Dec 31, 21
ASSETS		
Current Assets		
Checking/Savings		
Cash		
Cash-Checking	11,381.76	5,240.44
Cash-Savings	765,131.58	1,059,774.67
CD Mature 4/2023	250,000.00	0.00
Total Cash	1,026,513.34	1,065,015.11
Total Checking/Savings	1,026,513.34	1,065,015.11
Total Current Assets	1,026,513.34	1,065,015.11
TOTAL ASSETS	1,026,513.34	1,065,015.11
LIABILITIES & EQUITY		
Equity		
Opening Balance Equity	499,980.27	499,980.27
Retained Earnings	565,034.84	152,241.18
Net Income	-38,501.77	412,793.66
Total Equity	1,026,513.34	1,065,015.11
TOTAL LIABILITIES & EQUITY	1,026,513.34	1,065,015.11



Town of Hamburg Industrial Development Agency

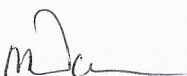
04/08/22

Treasurer's Report

Accrual Basis

March 2022

	Mar 22	Jan - Mar 22
Ordinary Income/Expense		
Income		
Administrative Fees	500.00	6,129.00
Interest Earnings	121.30	360.95
Refund	134.71	134.71
Total Income	756.01	6,624.66
Gross Profit	756.01	6,624.66
Expense		
Audit	4,500.00	4,500.00
Business Expenses & Mileage	914.18	1,202.75
Cell Phone	83.33	249.99
Complete Payroll		
Payroll and Benefits	10,404.62	28,713.86
Processing Payroll	104.70	402.05
Total Tax Liabilities	813.02	2,767.31
Total Complete Payroll	11,322.34	31,883.22
Conferences & Seminars	50.00	50.00
Membership Dues	0.00	5,000.00
Office Expenses		
IT Support	0.00	110.00
Office Equipment	0.00	195.62
Postage	0.00	95.96
Subscriptions	14.99	44.97
Supplies	0.00	224.92
Total Office Expenses	14.99	671.47
Payroll Expenses	0.00	73.00
Publicity & Public Hearings	0.00	276.00
Sponsorship	220.00	1,220.00
Total Expense	17,104.84	45,126.43
Net Ordinary Income	-16,348.83	-38,501.77
Net Income	-16,348.83	-38,501.77



AMENDMENT TO
EMPLOYMENT AGREEMENT
FOR

Regular Part-time Executive Assistant
Hamburg Industrial Development Agency

THIS AMENDMENT to the existing EMPLOYMENT AGREEMENT made on 16th day of June 2021, by and between the Board of Directors of the Hamburg Industrial Development Agency (hereinafter, the “board”) and Mary Doran residing at 6767 Powers Road, Orchard Park, NY 14127 (hereinafter, the “Executive Assistant” is made on the 20th day of April, 2022.

WHEREAS, the Board is empowered to modify the agreement upon mutual agreement of the Board and Executive Assistant; and

WHEREAS, the parties have mutually agreed upon the following modification to the terms and conditions relative to the Executive Assistant’s employment by the Board;

NOW, THEREFORE in consideration of the agreements hereinafter set forth and for other good and valuable consideration, the parties agree as follows:

Executive Assistant’s Duties and Responsibilities:

The Executive Assistant shall perform the duties and obligations outlined in the Job Description Form attached hereto.

(CONTINUED)

Hours of Work

EFFECTIVE MAY 2, 2022 - Monday through Friday 8:00 AM – 2:00 PM unless otherwise agreed on by both parties.

Complete Agreement

This Agreement constitutes the entire and complete agreement of the parties with respect to the matters it addresses. It may not be changed except by a subsequent writing signed by the parties as set forth herein.

CONTINUED ON NEXT PAGE

IN WITNESS WHEREOF, the parties hereto have signed their names on the day and year first above written.

Hamburg Industrial Development Agency

Executive Assistant

By: _____

Robert Hutchison, Chairman

Mary Doran, Executive Assistant

Sworn to before me this

Sworn to before me this

20th day of April, 2022.

20th day of April, 2022.

By: _____

By: _____

Notary Public

Notary Public



6122 South Park Avenue
Hamburg, New York 14075
716.648.4145
www.HamburgIDA.com

Hamburg Development Companies: Executive Assistant Job Description

The Hamburg Development Companies is comprised of the Hamburg Industrial Development Agency, the Hamburg Development Corporation, and the Hamburg New York Land Development Corporation. The Executive Assistant will be responsible for the day to day operations of the three organizations while directly assisting the Executive Director. The Executive Assistant will be required to work independently and display the aptitude and skills to acquire new responsibilities and assignments. Reports to: Executive Director

Responsibilities include:

- Answer phone calls and respond to emails and inquiries from the IDA website
- Update and maintain information on the IDA website including; current policies, Board information, meeting dates, meeting minutes, Audits and reports
- Write and distribute emails, correspondence memos, letters, and updating forms (i.e., annual PILOT survey)
- Maintain various office spreadsheets
- Reconcile seven (7) bank accounts for the HIDA, HNYLDC and HDC. Prepare vouchers and write checks
- Knowledge of Quick Books: maintain accounts /entries and prepare monthly Treasurer's reports for Board Meetings (HIDA, HNYLDC, HDC)
- Process Payroll on a bi-weekly basis
- Attend HIDA & HNYLDC Board meetings and prepare meeting minutes
- Maintain low cost loan program – for the HDC, depositing and recording loan payments
- Developing an Access database to maintain the PILOT program information (contact information, tax information and payment history)
- Attend scheduled events when appropriate
- Respond to questions and requests from respective Board members on an as needed basis
- Lead agency marketing activities on social media platforms, growing participation and enhancing the image and highlighting the production of the agency
- Additional Responsibilities throughout the year:
 - Administer annual PILOT payments, including calculating and preparing the invoice, collecting and tracking payments
 - Compile and provide documents for annual audits of the HIDA, HNYLDC and HDC
 - Communicate the annual survey to companies in the PILOT program
 - Compliance memos to school districts, county and villages on PILOT payments
 - State Reporting - prepare the annual PARIS reports including coordinating and collecting supporting information, uploading files, calculating property taxes and annual board member survey.
 - Local Labor Reporting on PILOT projects in construction phase
- Other tasks as assigned by the Executive Director

RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") INCREASING THE AUTHORIZATION OF 290 LAKE STREET HOLDINGS, LLC (THE "LESSEE") TO CONSTRUCT AN APPROXIMATELY 19,260 SQUARE FEET MIXED-USE INFILL DEVELOPMENT ON A FORMER VEHICLE REPAIR FACILITY, CONSISTING OF 12,840 SQUARE FEET OF 10 MARKET RATE APARTMENTS AND 6,420 SQUARE FEET OF SPECULATIVE PROFESSIONAL OFFICE AND / OR RETAIL SPACE LOCATED AT 290 LAKE STREET, IN THE VILLAGE OF HAMBURG, AS AGENT FOR THE AGENCY, FOR LEASEBACK BY THE LESSEE TO THE AGENCY, TO ACQUIRE AND INSTALL MACHINERY, EQUIPMENT, FURNISHINGS AND FIXTURES REQUIRED IN CONNECTION HEREWITH, AND TO TAKE OTHER PRELIMINARY ACTION.

WHEREAS, Due, to increased project costs 290 Lake Street Holdings, LLC (the "Lessee") has entered into renewed negotiations with the officials of the Town of Hamburg Industrial Development Agency (the "Agency") with respect to the acquisition and equipping by the Agency through a lease, lease-back transaction with mortgage for the construction of an approximately 19,260 square feet mixed-use infill development on a former vehicle repair facility, consisting of 12,840 square feet of 10 market rate apartments and 6,420 square feet of speculative professional office and / or retail space located at 290 Lake Street, Hamburg, New York (the "Project"); and

WHEREAS, the Lessee has submitted an Eligibility Questionnaire and other materials and information to the Agency (collectively hereinafter the "Eligibility Questionnaire") to initiate the accomplishment of the above; and

WHEREAS, the Eligibility Questionnaire sets forth certain information with respect to the Lessee, including the following: that the Lessee desires Agency assistance to construct a building on a parcel of land to allow for the continued growth of the Lessee; that at the time of the application the Lessee has no FTE employees and no PTE, if the assistance is granted, the Lessee anticipates hiring 3 FTE and 3 PTE employees at the Project location in the Village of Hamburg within two years following the completion of the Project; that the Project will result in substantial capital investment; that there will be no adverse disruption of existing employment at facilities of a similar nature in the Village of Hamburg; if Agency assistance is disapproved, the Lessee would have to scale back the Project negatively impacting future growth in New York; and that, therefore, Agency assistance is necessary to encourage the Lessee to proceed with the Project in the Village of Hamburg; and

WHEREAS, the Agency has held a public hearing pursuant to Section 859-A of the General Municipal Law on the original application and has held a public hearing on the application for increased benefits; and

WHEREAS, the Agency desires to further encourage the Lessee with respect to the construction and equipping of the Project, if by so doing it is able to induce the Lessee to proceed with the Project in the Village of Hamburg;

NOW, THEREFORE, THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. The Agency hereby determines that the construction and installation of the Project and other assistance thereof by the Agency pursuant to the New York State Industrial Development Agency Act will promote and is authorized by and will be in furtherance of the policy of the State as set forth in said Act. The Agency further hereby determines, on the basis of the Eligibility Questionnaire and supplemental information furnished by the Lessee, as follows: (a) it would not have otherwise assisted the Project except to induce the location of the Project in the area to be served by the Project as there is a demonstrable need for the Project; (b) that Agency assistance is reasonably necessary to promote economic development and to induce the Lessee to proceed with the Project; (c) there will be no substantial adverse disruption of existing employment or facilities of a similar nature to the Project in such area; (d) the Project will allow the Lessee to expand in the Village of Hamburg; (e) the Project will create additional employment and provide substantial capital investment; The Agency further determines, on the basis of the Lessee's Eligibility Questionnaire that; (f) the Project as represented is reasonably necessary to provide the purposes of the Act, subject to verification and confirmation of such representations prior to the into a lease only transaction and (g) the Project is an integral part of the Lessee's plan to proceed with the Project in the Village of Hamburg.

Section 2. The Agency hereby authorizes the Lessee to proceed with the Project as herein authorized, which Project will be without financing with a lease only transaction.

Section 3. The Agency will undertake, as soon as it is furnished with sufficient information as to the details of a lease only transaction.

Section 4. The Chairman, Vice Chairman, Executive Director, Secretary and Assistant Secretary of the Agency and other appropriate officials of the Agency and its agents and employees are hereby authorized and directed to take whatever steps may be necessary to cooperate with the Lessee to assist in the acquisition and construction of the Project.

Section 5. The Lessee is authorized to initiate the construction of an approximately 19,260 square foot building thereon and authorize the Lessee to proceed with the acquisition and installation of machinery, equipment, furnishings and fixtures required in connection therewith at combined cost not to exceed **\$4,520,892.00**, subject to the obtaining of all required approvals from the Village of Hamburg and other involved governmental agencies, and to advance such funds as may be necessary to accomplish such purposes. The Agency is hereby authorized to enter into such agreements with the Lessee as the Chairman, Vice Chairman, Executive Director, Secretary and Assistant Secretary or other officer may deem necessary in order to accomplish the above.

Section 6. The Lessee are authorized to make purchases of goods and services relating to the Project that would otherwise be subject to New York State and local sales and use tax in a combined amount up to **\$1,560,270.00** which may result in a New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed **\$136,523.63**.

The Agency may consider any requests by the Lessee for increases in the amount of sales and use tax benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services necessary for the completion of the Project.

Section 7. Any such action heretofore taken by the Lessee in initiating the acquisition and construction of the Project is hereby ratified, confirmed and approved.

Section 8. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Lessee. By acceptance hereof, the Lessee agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, officers, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Project and the financing thereof.

Section 9. The Agency hereby authorizes and approves real property tax abatement benefits structured through a **seven year PILOT** ("PILOT Agreement") estimated to provide **\$267,516.91 in real property tax abatement benefits**, and resulting in estimated total payments in lieu of taxes of **\$69,430.38** over the term of the PILOT Agreement.

Section 10. The Agency hereby authorizes and approves that the value of the mortgage to be placed upon the facility shall not exceed **\$3,100,000.00** and that the mortgage tax exemption benefit shall not exceed **\$23,250.00**.

Section 11. The provisions of this resolution shall continue to be effective until one year from the date hereof whereupon this resolution shall cease to be effective (except with respect to matters contained in Section 7 hereof) unless prior to the expiration of such period (a) the Agency shall by subsequent resolution extend the effective date of this resolution or (b) the Agency enters into a lease only transaction or (c) the Lessee shall continue to take affirmative steps to secure financing for the Project.

Section 12. The execution and delivery of a Project Agreement, Lease to Agency and a Leaseback Agreement between the Agency and the Lessee, each being substantially in the form approved by the Agency for prior transactions or in form approved by the Chairman, Vice Chairman, Executive Director Secretary or Assistant Secretary is hereby authorized. The appropriate officers of the Agency are hereby authorized to execute, seal, acknowledge and deliver such agreement and any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this resolution. The execution and delivery of each such instrument shall be conclusive evidence of due authorization and approval.

Section 13. The Agency has made and makes no representation or warranty whatsoever, either express or implied, with respect to the merchantability, condition, environmental status, fitness, design, operation or workmanship of any part of the Project, its fitness for any particular purpose, the quality or capacity of the materials in the Project, or the suitability of the Project for the Lessee's purposes or needs. The Lessee is satisfied that the Project is suitable and fit for

Lessee's purposes. The Agency shall not be liable in any manner whatsoever to anyone for any loss, damage or expense of any kind or nature caused, directly or indirectly, by the Project property or the use or maintenance thereof or the failure of operation thereof, or the repair, service or adjustment thereof, or by any delay or failure to provide any such maintenance, repairs, service or adjustment, or by any interruption of service or loss of use thereof or for any loss of business howsoever caused, and the Lessee hereby indemnifies and holds the Agency harmless from any such loss, damage or expense. SEQRA Review has been completed by the Village of Hamburg.

Section 14. The provisions of the new Section 875 of the General Municipal Law which became effective on March 28, 2013 shall apply to this Project. In the event it is determined that an agent, project operator or other person or entity obtained state sales and use exemptions benefits for which they were not entitled or which were in excess of the amount authorized or which are for property or services not authorized or taken in cases where such Lessee, its agents, project operators or other person or entity failed to comply with a material term or condition to use property or services in the manner required by Agreements entered into between the Agency and the applicant with respect to the Project, the agent, project operator or other person or entity shall comply with all the provisions of Section 875 and pay back to the Agency the amount of the state sales and use tax exemptions benefits that they obtained but were not entitled to.

Section 15. Should the Agency's participation in this Project be challenged by any party, in the courts or otherwise, the Lessee shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from such challenge, including, but not limited to, the fees and disbursements of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under Article 18-A of the General Municipal Law to participate in the Project, this resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Lessee hereunder or otherwise.

Section 16. This resolution is subject to compliance with all local building and zoning requirements.

Section 17. The provisions of the Town of Hamburg Industrial Development Agency Policy for Recapture and/or Termination or Modification of Financial Assistance adopted by the Agency on June 15, 2016 shall be applicable to this Project.

Section 18. This resolution shall take effect immediately.

ADOPTED: April 20, 2022

ACCEPTED:

290 LAKE STREET HOLDINGS, LLC.
as Lessee

By _____