



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, August 17, 2022, 7:30 AM
Blasdell Village Hall, Court Room, 121 Miriam Avenue, Blasdell, New York**

Join Zoom Meeting

<https://us02web.zoom.us/j/84469865888?pwd=qUxBR05CUDVvOTFadjE2Ynp3MmFHZz09>

Meeting ID: 844 6986 5888

Passcode: 14075

1. Roll Call
2. Reading and Approval of July 2022 Minutes
3. Report of the Treasurer – July Treasurer Report
4. Executive Director Update

New Business

- Amazon – update
- Mission Hills Phase IV Project – Resolution

Unfinished Business

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

Next meeting: September 21, 2022, 7:30 AM Blasdell Village Hall



Unapproved/draft
(BOD motion for approval at 8/17/22 meeting)

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**Hamburg Industrial Development Agency
Board of Directors Meeting
July 20, 2022, 7:30am
40 Main Street, Hamburg, New York - Pitch Hamburg Offices**

Present

Cam Hall
Tom Moses
Davis Podkulski
Bob Hutchison
Bob Reynolds
Wence Valentin
Jamel Perkins

Excused

Andy Palmer
Janet Plarr

Guests

Jennifer Strong, Neill & Strong
Francesca Bond, Hamburg Sun
Annamaria Masucci, Pitch Hamburg

Executive Director

Sean Doyle

-Roll Call

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

Moved: Tom Moses

Seconded: Cam Hall

Ayes: Hall, Moses, Podkulski, Hutchison, Perkins, Valentin, Reynolds

Nays: none

Carried

-Motion to approve the June 2022 board meeting minutes

Moved: Valentin

Seconded: Reynolds

Ayes: Hall, Moses, Podkulski, Hutchison, Perkins, Valentin, Reynolds

Nays: none

Carried

Treasurer Bob Reynolds gave an update on the financials. Received interest payment of \$452.86 of which \$359.44 was from the CD and \$93.42 from the bank accounts. It is a considerable improvement over what was being received a year ago in interest payments. The company incurred payroll expenses of \$11,482.34 and total expenses of \$15,192.78 for the month, currently income is negative for the year however there are projects in the pipeline due to close. Balance on the accounts is \$990,353.28.

-Motion to approve the June 2022 Treasurer Report

Moved: Cam Hall

Seconded: Bob Hutchison

Ayes: Hall, Moses, Podkulski, Hutchison, Perkins, Valentin, Reynolds

Nays: none

Carried

Executive Director Update:

- Key Energy (Blasdell Battery Project) if not closed by September will incur extension fees. They have been made aware and should be closing in August.
- Johnsons Brewhouse, applied for a loan thru the ECIDA for 1.5 million, it looks positive. The ECIDA Loan Committee did not meet last month will be meeting July 27th
- K&H Industries as well as 290 Lake are still working thru financing. If 290 Lake does not break ground by September they will have to begin the entire application process all over again thru the Village.
- Activity picked up this month, several inquiries, received an application from a local developer for a senior housing, currently working thru the application process for the August/September meeting. The project at South Park and Sowles is also moving along.
- CARES Grant received another application. An ad on the grant was run in the Hamburg Sun for 2 weeks in July which resulted in additional inquiries. The HIDA partnered with the Town of Hamburg to receive the grant. A press release with the Town and grant recipients will be planned for August.
- Legislative news, new program out called "Fast NY" similar to "Shovel Ready". Doyle met with owners of a few potential sites in Hamburg and with their approval submitted their sites for approval thru the Town of Hamburg.
- Business First Rankings of IDAs – HIDA jumped from number 13th to 8th.
- Next board meeting is August 17th back at Blasdell Village Hall.
- Pitch Hamburg will have their ribbon cutting on August 31st.
- In a joint venture with the Southtowns Regional Chamber of Commerce the HIDA will co-sponsor a Commercial Real Estate Developer Panel on September 28th at the Lodge at Woodlawn Beach. Additionally, a few local manufacturers will be invited to show/display products that are locally made.
- ECC Advisory Board, which Doyle is a member laid off the organizer. Doyle will continue to stay on top of changes to the South Campus with the impending stadium development.
- Invest Buffalo is kicking off a relocation guide, a valuable tool for companies/people relocating here. If anyone would like copies let Doyle know.
- HDC Loan fund has not had much activity especially with the CARES Grant is still active.
- A Canadian company has opened a location in Hamburg/Blasdell on Lake Avenue. John Bead Outlet, they are a distributor of beads for craft stores such as a Hobby Lobby. They have a retail outlet store front on Lake Avenue and a distribution facility in the back. They plan to employ up to 15 employees in the distribution facility which will directly fill online orders from craft stores such as JoAnn Fabrics.

New Business

- Doyle welcomed Jamel Perkins to the board. He filled the spot vacated by Norma Rusert-Kelly. Jamel introduced himself to the board and the board welcomed him.
- Doyle introduced the Executive Director of Pitch Hamburg, Annamaria Masucci to the board. Pitch Hamburg is a mechanism to generate new businesses in the community. She introduced herself to the board and talked about the vision of Pitch Hamburg. She sees herself as the "connector" person for someone wanting to start up business, a place where people can come for information and assistance. Additionally they will be planning a start-up competition with a monetary prize. However unlike 43North Pitch will also focus on Main Street Businesses.

Tom Moses commended Doyle and the group of individuals he worked with in getting Pitch Hamburg off the ground.

Doyle stated he works with an amazing group of people on the Pitch Hamburg Board, all from Hamburg/Hamburg business owners.

Masucci stated Favor Drop, a start-up, the first to share the space at the Pitch Hamburg facility supports all of the small businesses in the Village of Hamburg. She will give the board a complete tour of the facility after the board meeting.

Unfinished Business

-Ford, Doyle recapped what has been going on the past few months. The resolution originally approved cannot be fulfilled as Ford cannot commit to support the job numbers with layoffs occurring due to the re-tooling of the plant. State law requires companies receiving inducements to commit to job retention and growth. Doyle sought support from NYESD and State Legislature but the same policies apply for job retention or creation.

Doyle read the following resolution:

***RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
RESCINDING ITS AUTHORIZATION AND APPROVAL OF THE EXECUTION AND DELIVERY OF
AN INSTALLMENT SALE AGREEMENT, AND OTHER INSTRUMENTS AND OTHER MATTERS
FOR FORD MOTOR COMPANY BUFFALO STAMPING PLANT 2022-2026.***

WHEREAS, Ford Motor Company (the "Company"), had entered into negotiations with officials of the Town of Hamburg Industrial Development Agency (the "Agency") with respect to the acquisition and installation of machinery, equipment, furnishings and fixtures by the Company, as agent for the Agency, for the Company's industrial/producer services facility located at 3663 Lake Shore Road, Hamburg, New York for a five year period commencing on January 1, 2022 and ending on December 31, 2026 (the "Project"); and

WHEREAS, the Company has since conveyed its inability to commit to the job creation outlined in the Eligibility Questionnaire to the Agency by the Company and has failed to sign the and accept the terms of the Inducement Resolution and the Project and Agent Agreement.

BE IT RESOLVED BY THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Agency hereby rescinds its inducement resolution adopted on January 12, 2022.

Section 2. This resolution shall take effect immediately.

ADOPTED: July 20, 2022

-Motion to approve the above resolution for Ford Motor Company.

Moved: Cam Hall

Seconded: Davis Podkulski

The board discussed the above resolution at length and all were in agreement.

Ayes: Moses, Podkulski, Hutchison, Hall, Valentin, Reynolds, Perkins

Nays: none

Carried

-Reminder if you have not returned your sexual harassment training to Mary to do so as soon as possible.

-Privilege of the Floor – no comments

-Motion to adjourn at 8:36am

Moved: Bob Reynolds **Seconded:** Davis Podkulski

Ayes: Perkins, Moses, Podkulski, Hutchison, Hall, Valentin, Reynolds

Nays: none

Carried


Sincerely,

Sean Doyle, Executive Director

Next meeting: August 17, 2022, 7:30AM Blasdel Village Hall

Town of Hamburg Industrial Development Agency
Treasurer's Report
As of July 31, 2022

	<u>Jul 31, 22</u>	<u>Dec 31, 21</u>
ASSETS		
Current Assets		
Checking/Savings		
Cash		
Cash-Checking	13,780.22	5,240.44
Cash-Savings	715,504.10	1,059,774.67
CD Mature 4/2023	250,000.00	0.00
Total Cash	<u>979,284.32</u>	<u>1,065,015.11</u>
Total Checking/Savings	<u>979,284.32</u>	<u>1,065,015.11</u>
Total Current Assets	<u>979,284.32</u>	<u>1,065,015.11</u>
TOTAL ASSETS	<u><u>979,284.32</u></u>	<u><u>1,065,015.11</u></u>
LIABILITIES & EQUITY		
Equity		
Opening Balance Equity	499,980.27	499,980.27
Retained Earnings	565,034.84	152,241.18
Net Income	-85,730.79	412,793.66
Total Equity	<u>979,284.32</u>	<u>1,065,015.11</u>
TOTAL LIABILITIES & EQUITY	<u><u>979,284.32</u></u>	<u><u>1,065,015.11</u></u>



Town of Hamburg Industrial Development Agency

Treasurer's Report

July 2022

08/09/22

Accrual Basis

	Jul 22	Jan - Jul 22
Ordinary Income/Expense		
Income		
Administrative Fees	0.00	13,587.34
Interest Earnings	88.85	736.42
Interest Earnings CD	176.77	718.87
Refund	0.00	134.71
Total Income	<u>265.62</u>	<u>15,177.34</u>
Gross Profit	265.62	15,177.34
Expense		
Audit	0.00	4,500.00
Business Expenses & Mileage	216.82	2,078.48
Cell Phone	83.33	583.31
Complete Payroll		
Payroll and Benefits	9,558.30	71,937.33
Processing Payroll	109.29	868.13
Total Tax Liabilities	677.58	5,978.38
Total Complete Payroll	<u>10,345.17</u>	<u>78,783.84</u>
Conferences & Seminars	0.00	100.00
Legal & Accounting	500.00	500.00
Membership Dues	0.00	5,100.00
Office Expenses		
IT Support	0.00	110.00
Office Equipment	0.00	195.62
Postage	0.00	176.58
Subscriptions	134.98	363.92
Supplies	0.00	648.25
Total Office Expenses	<u>134.98</u>	<u>1,494.37</u>
Payroll Expenses/Insurance	54.28	2,872.13
Publicity & Public Hearings	0.00	596.00
Sponsorship	0.00	4,300.00
Total Expense	<u>11,334.58</u>	<u>100,908.13</u>
Net Ordinary Income	<u>-11,068.96</u>	<u>-85,730.79</u>
Net Income	<u><u>-11,068.96</u></u>	<u><u>-85,730.79</u></u>



PROJECT UPDATE:

Bayview Road Associates, LLC
co-applicant: Amazon.com Services, LLC

August 15, 2022

Economic Progress: \$9 of economic benefit to \$1 of incentive



HISTORY

- Resolution Adopted February 16, 2021
- Construction start April 2021
- Project Completion March 2022

PROJECT BENEFITS (EST.)

- Property Taxes = \$599,725
- Income Taxes = \$1,944,720
- Sales Taxes = \$645,691
- New assessed value = \$5,600,000

COMPANY INCENTIVES (EST.)

- Property Tax = \$5,059,645
- Mortgage Tax = \$253,200
- Sales Tax = \$1,767,500
- Total (net of fees) = \$6,848,345

EMPLOYMENT

- Local Labor Construction commitment complete for core and shell
- **Employment commitment required within 2 years of project completion, March 2024.**

PROJECT SCHEDULE

- Amazon.com Services, Inc. requests sales tax extension to February 2024

Project Address:

Lake Erie Commerce Center
Hamburg, New York 14219



← BEFORE 68 ACRES UNDEVELOPED



Lake Erie Commerce Center

↑ AFTER 167,815 SQ FT DISTRIBUTION FACILITY ON APPROX 60 ACRES

↑ SUBDIVIDED PARCEL—A 2.5 ACRE AND A 6.2 ACRE PARCEL STILL TO BE DEVELOPED

Project Benefits and Incentives to Date

Investment	Benefits	Incentives
84,000 Local construction labor hours	\$13,460,603 wages \$648,791 tax revenue	\$1,314,000
Mortgage Recording Tax	\$84,400	\$253,200
Property Tax	\$11,951	\$0*
TOTALS	\$14,205,745	\$1,567,200

*Property tax discount (PILOT) begins 2023

Extension Request

Amazon.com Services, LLC Request:

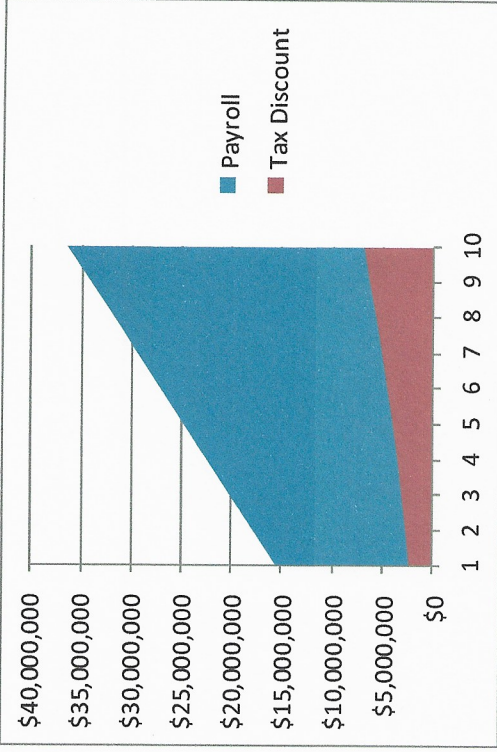
August 2022—” Amazon requests an extension for its sales tax exemption for the construction of its delivery station to be located in Hamburg, NY. Due to various macroeconomic issues such as industry-wide supply chain challenges and inflationary pressures that have impacted not only this site but Amazon’s entire network of facilities, the construction timeline for the site has been delayed. While Amazon remains committed to the site and the community, Amazon requests a two-year extension for the sales tax exemption for the site due to the previously mentioned issues.

As we also discussed, the two year period will allow time for full fit-out, and we can avoid having to go back to the board one year from now. As I believe you know, it is not uncommon for a Sales Tax benefit period to run for more than one year.”

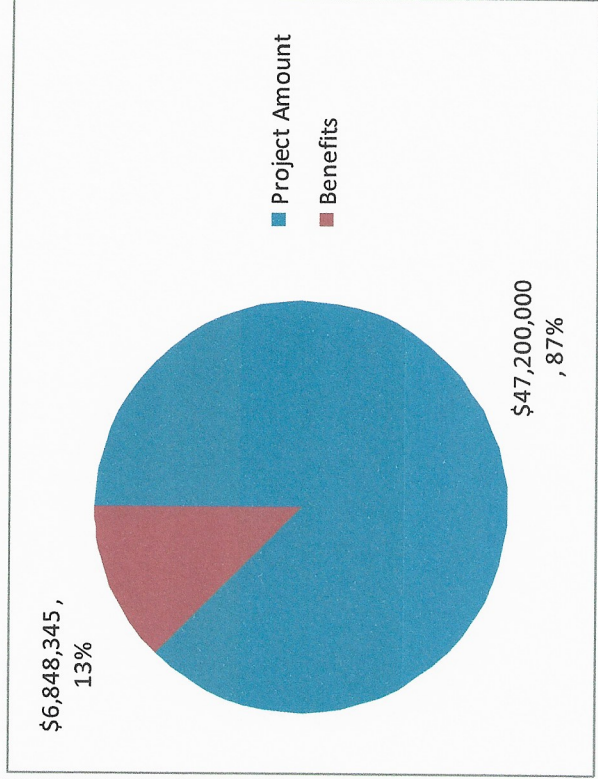
Highlight of Material Terms:

1. Achievement of 75 new full-time equivalent jobs at the project location two years after project completion, and retention of such jobs for duration of the PILOT.
—Due by March 2024
2. Investment of not less than \$39,200,000 at the project location as noted in the application.—Complete
3. Compliance with the Agency’s Local Labor Policy in connection with the construction of the Project - Partially Complete

Accrued incentives vs. Accrued Payroll



Discount vs. Investment Comparison

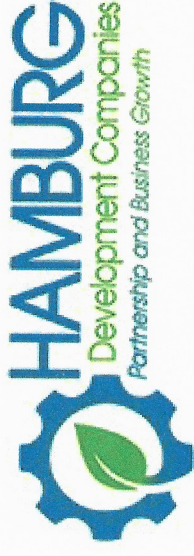


PROJECT PROFILE:

Mission Hills Phase IV

\$12,193,011

August 15, 2022



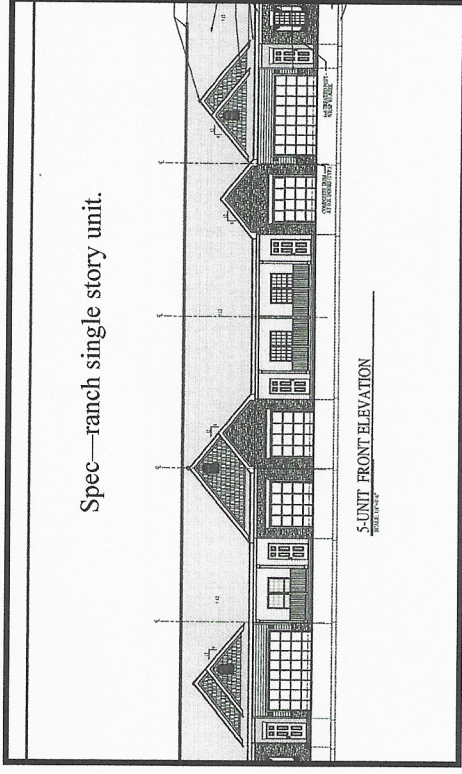
ELIGIBILITY
<ul style="list-style-type: none"> 7 Year PILOT—Commercial multifamily project. Eligible for Erie County and NY sales tax exemption under Senior Housing
COMPANY INCENTIVES (EST.)
<ul style="list-style-type: none"> Property Tax = \$506,576 Mortgage Tax = \$91, 448 Sales Tax = \$479,575
PROJECT BENEFITS (EST.)
<ul style="list-style-type: none"> Property Taxes = \$101,144 Income Taxes = \$328,345 Sales Taxes = \$95,766 Benefit Ratio 7:1
EMPLOYMENT
<ul style="list-style-type: none"> 1 Full-time job created Wage \$60,000 2 Part-time jobs created Wage \$25,000
PROJECT SCHEDULE
<ul style="list-style-type: none"> Start November 2022

Project Address

O Camp Road SBL 170.07-2-1.11
 Hamburg, New York 14075
 (Frontier Central School District)

Investment

Construction: \$10,961,723
 Land Cost: \$935,000
 Soft Costs : \$1,231,288



Company Description: Mission Hills Developer LLC is a developer and property management company, that exclusively develop senior housing 55+. They have had multiple projects in and around WNY including Hamburg. Their current proposal is part of a multi phase project that began in 2010 on Camp Road. The HIDA has approved sales tax abatement, mortgage tax abatement and PILOTs on different phases as outlined on the next page.

Project Description: Phase IV will consist of 55 ranch single story units approximately 1390 in size. The units include 2 bedrooms and 2 full baths. Each unit will have a dining room and great room/den with electric fireplace. The units will have a modern kitchen with appliances, laundry room with storage and either a one or two car garage with a private back porch in a park like setting.

PROJECT PROFILE:
Mission Hills— Phase IV
\$12,193,011

HIDA COMPANY HISTORY:

The Senior Villages at Mission Hills - 4 phases of development on approx. 98 acres of vacant land on Camp Rd which began in 2010.

Phase I: 14 Senior Apt buildings with 8 apartments each.

HIDA approved 4-23-2010 (sales Tax, mortgage tax, 10 year PILOT)
Total cost of—\$11,677,714

Phase II: 12 Senior Apt buildings with 8 apartments each.

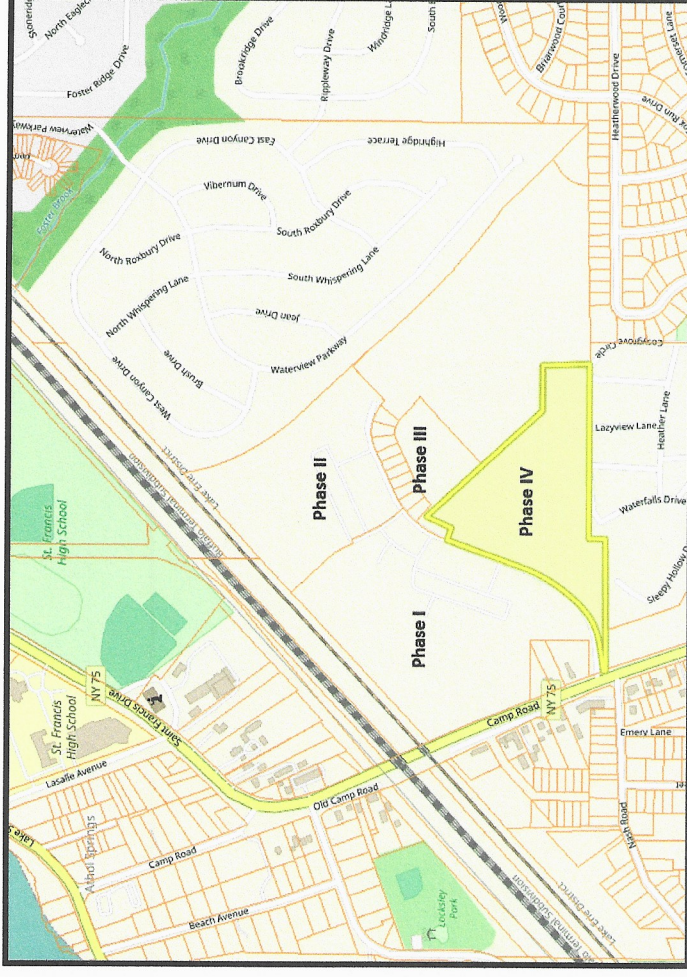
HIDA Approved 2-23-2013 (sales Tax, mortgage tax, 7 year PILOT)
Total cost of—\$10,124,959

Phase III: 91 Patio Homes

No HIDA inducements

CURRENT PROPOSAL

Phase IV: 55 Ranch style units



MATERIAL TERMS:

1. Achievement of a total of 1 full-time equivalent job at the project location and 2 part-time jobs at project completion, and retention of such jobs for duration of the PILOT.
2. Investment of not less than \$12,193,011 at the project location as noted in the application.
3. Compliance with the Agency's Local Labor Policy in connection with the construction of the Project

RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") AUTHORIZING MISSION HILLS DEVELOPER, LLC (THE "LESSEE") TO CONSTRUCT, INSTALL AND EQUIP 55 – TWO BEDROOM SENIOR HOUSING UNITS AND A COMMUNITY CENTER ON CAMP ROAD, TOWN OF HAMBURG, AS AGENT FOR THE AGENCY FOR LEASE TO THE AGENCY AND SUBSEQUENT LEASEBACK TO THE LESSEE AND TO TAKE OTHER ACTION.

WHEREAS, MISSION HILLS DEVELOPER, LLC (the "Lessee") has entered into negotiations with the officials of the Town of Hamburg Industrial Development Agency (the "Agency") with respect to the construction, installation and equipping of 55 – two bedroom senior housing units and a community center at Camp Road in the Town of Hamburg for lease to the Agency and subsequent Leaseback to the Lessee (the "Project"); and

WHEREAS, the assistance contemplated by the Agency will include 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; 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 Agency has, after giving all required notices, held a public hearing on the Project pursuant to Section 859-A of the General Municipal Law; and

WHEREAS, the Eligibility Questionnaire sets forth certain information with respect to the Lessee, including the following: that the Lessee desires Agency assistance with respect to the construction, installation and equipping of 55 – two bedroom senior housing units and a community center at Camp Road in the Town of Hamburg for lease to the Agency and subsequent Leaseback to the Lessee. If the assistance is granted, **the Lessee anticipates creating 1 FTE and 2 PTE at the Project location** in the Town 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 Town 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 Town of Hamburg; and

WHEREAS, the Agency desires to further encourage the Lessee with respect to the Project, if by so doing it is able to induce the Lessee to proceed with the Project in the Town of Hamburg.

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

Section 1. The Agency hereby determines that the acquisition, construction, equipping

and installation of the Project and the financing or 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 financed or 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 financing and/or other 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 its business in the Town 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 with mortgage or lease only transaction and (g) the Project is an integral part of the Lessee's plan to proceed with the Project in the Town of Hamburg.

Section 2. 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, construction equipping and installation of the Project.

Section 3. The Lessee is authorized to initiate the construction, installation and equipping of 55 – two bedroom senior housing units and a community center at Camp Road in the Town of Hamburg for lease to the Agency and subsequent Leaseback to the Lessee and at a total Project Cost not to exceed **\$12,193,011.00**, subject to the obtaining of all required approvals from the Town of Hamburg and other involved governmental agencies, and to advance such funds as may be necessary to accomplish such purposes.

Section 4. The Agency is hereby authorized to enter into such agreements with the Lessee, as the Chairman, Vice Chairman, Executive Director or other officer may deem necessary in order to accomplish the above.

Section 5. The Lessee is 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 an amount up to **\$5,480,861.50** 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 **\$479,575.38**. 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 6. Any such action heretofore taken by the Lessee in initiating the acquisition, construction, installation and equipping of the Project is hereby ratified, confirmed and approved.

Section 7. 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 8. The Agency hereby authorizes and approves real property tax abatement benefits structured through a **seven year PILOT** ("PILOT Agreement") estimated to provide **\$506,576.18 in real property tax abatement benefits**, and resulting in estimated total payments in lieu of taxes of **\$256,553.64** over the term of the PILOT Agreement.

Section 9. The Agency hereby authorizes and approves that the value of the mortgage to be placed upon the facility shall not exceed **\$12,193,011.00** and that the mortgage tax exemption benefit shall not exceed **\$91,450.00**.

Section 10. The execution and delivery of a Project and Agent Agreement, Closing Agreement, Lease to Agency, and 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 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 11. The execution and delivery of a mortgage from the Agency and the Lessee to a lender selected by the Lessee and approved by the Chairman, Vice Chairman, Executive Director or Assistant Secretary in an amount not to exceed **\$12,193,011.00** and other ancillary documents, if required, which mortgage and ancillary documents shall be substantially in the form approved by the Agency for prior transactions or in 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 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 12. 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.

Section 13. The provisions of Section 875 of the General Municipal Law 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 14. 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 15. This resolution is subject to compliance with all local building and zoning requirements.

Section 16. The Agency has reviewed the approvals adopted by the Town of Hamburg Planning Board on April 6, 2022 determining that the proposed action will not have a significant impact on the environment and that a draft environmental impact statement will not be required to be prepared and the Agency hereby determines, based upon information furnished to the Agency by the Town of Hamburg and such other information as the Agency has deemed necessary to make this determination, that the Project does not require the preparation of an environmental impact statement under the State Environmental Quality Review Act, being Article 8 of the New York State Environmental Conservation law, as the contemplated actions will not have a significant effect on the environment and the Agency hereby confirms the negative declaration previously adopted by the Town of Hamburg attached hereto and made a part hereof.

Section 17. The provisions of the Town of Hamburg Industrial Development Agency Policy for Recapture and/or Termination or Modification of Financial Assistance and Local Labor Policy shall be applicable to this Project.

Section 18. This Resolution shall take effect immediately and shall continue in full force and effect for one (1) year from the date hereof and on or after such one (1) year anniversary, the Agency may, at its option (a) terminate the effectiveness of this Resolution (except with respect

to the obligations of the Lessee pursuant to Sections 12, 13, 14 and 17 of this Resolution which shall survive any expiration or termination) or (b) allow the Lessee additional time in which to close the transactions contemplated by this Resolution based upon affirmative actions taken by the Lessee to complete such transactions. Upon any allowance of additional time to close, the Agency may charge the Lessee an extension fee in accordance with the Agency's fee schedule.

ADOPTED: August 17, 2022

ACCEPTED: August __, 2022

MISSION HILLS DEVELOPER, LLC
as Lessee

By _____
Louis Manko, Managing Member