

**TOWN OF AMHERST DEVELOPMENT CORPORATION**  
**Minutes of the 141<sup>st</sup> Meeting**  
**February 26, 2016 – 8:30 am**  
**Corporation Offices, 4287 Main Street**

The meeting of the above captioned Corporation was called to order by Chairman Carlton Brock.

PRESENT: Carlton Brock  
Michele Marconi  
Aaron Stanley  
E. Marshall Wood, Jr.  
Steven Sanders  
Edward Stachura  
Michale Szukala  
James Allen, Executive Director  
Nathan Neill, Esq.

GUESTS: AIDA Staff  
Terrance Gilbride, Esq., Hodgson Russ  
Samuel Shapiro, Esq., Weinberg Campus, Inc.

Chairman Brock reminded everyone that the meeting was being tape recorded.

**MINUTES**

The minutes of the March 2015 meeting were approved as presented.

**BILLS & COMMUNICATIONS**

There were no Bills & Communications at this meeting.

**TREASURER'S REPORT**

There was no Treasurer's Report for this meeting

**PUBLIC COMMENT**

There was no public comment at this meeting.

**COMMITTEE REPORTS**

There were no Committee Reports at this meeting.

**UNFINISHED BUSINESS**

There was no Unfinished Business at this meeting.

**NEW BUSINESS**

**MENORAH CAMPUS, INC.** – Applicant is requesting Corporation consent to certain modifications to the tax exempt bond documents, which were outlined in a letter dated February 18, 2016, from Robert T. Mayer, Vice President of Finance for the Menorah Campus, Inc. (attached)

Amherst Development Corporation (ADC) Bond Counsel representative Terrance Gilbride reminded the board that the original tax exempt bond for this project was issued in 2010 and that the ADC board approved modifications in 2013. Mr. Gilbride went on to explain that IRS code requires Issuer consent for any modifications to a tax exempt bond issue or else the bond will become taxable. Mr. Gilbride also explained that the modifications requested will have no effect on ADC.

There was no discussion.

Upon a motion by Aaron Stanley, seconded by Michele Marconi and aye votes from Brock, Wood, Sanders, Stachura and Szukala, the motion was unanimously passed and it was

**RESOLVED, THAT THE TOWN OF AMHERST DEVELOPMENT CORPORATION AUTHORIZE THE EXECUTION OF CERTAIN AGREEMENTS IN CONNECTION WITH THE MENORAH CAMPUS, INC. PROJECT.**

8:36 am – Meeting adjourned.



February 18, 2016

Town of Amherst Development Corporation  
4287 Main Street  
Amherst, New York 14226  
Attention: Chairman

Re: Town of Amherst Development Corporation  
Tax-Exempt Multi-Mode Revenue Bonds (Menorah Campus Inc. Project), Series 2010A  
in the original principal amount of \$12,530,000  
Modification of Bond Terms - 2016

Dear Chairman:

Please be advised that Menorah Campus Inc. and certain of its affiliates and Manufacturers and Traders Trust Company (“M&T”), as the holder of the referenced bonds (the “Bonds”), are in the final stages of negotiations of an Agreement providing for, among other things, possible modifications of certain terms of the Bonds. The possible modifications are summarized as follows:

1. Waiver of all prepayment premiums applicable to a pay down of the Bonds to occur before March 31, 2016.
2. Additional security for the payment of the Bonds in the form of collateral mortgages granting first priority mortgage liens upon the real property located at 2635- 2655, 2675, 2691, 2791 and 2801 North Forest Road, Getzville, New York 14068.
3. The Release, by M&T, for the benefit of a possible alternative lender, from the lien of the Collateral Mortgage, dated as of September 1, 2013, executed and delivered by the Company to the Issuer and thereafter assigned by the Issuer to M&T, and recorded in the Erie County Clerk’s Office on September 23, 2013 in Liber 13654 of Mortgages at Page 8912 of the real property, improvements and fixtures, located on that portion of Menorah’s premises at 2700 North Forest Road, Getzville 14068 known as the “Stovroff Building”.
4. The release or subordination, for the benefit of such alternative lender, by M&T of all accounts, lease payments and revenue generated from the business operations conducted in and upon the Stovroff Building from the security interests held by M&T as collateral for the payment of at the Bonds.
5. Waiver of all payments of principal required under the Bonds and Bond Documents through February 28, 2017, with payments of interest only in full satisfaction of the Company’s payment obligations under the Bonds and Bond Documents.

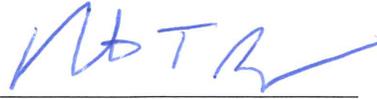
We would like to accomplish the modifications as soon as possible. Accordingly, please arrange for the Corporation to consider this request at your next regularly scheduled meeting. Counsel to Manufacturers and Traders Trust Company has contacted your Bond Counsel, Terrence Gilbride of Hodgson Russ LLP, and he is ready to prepare a resolution approving the modifications for consideration by the board of the Corporation.

Please call with any comments or questions. We very much appreciate your continued cooperation on this matter.

Very truly yours,

MENORAH CAMPUS INC.

By: \_\_\_\_\_



Robert T. Mayer  
Vice President - Finance

Cc: James J. Allen, Corporation Executive Director

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**RESOLUTION AUTHORIZING AMENDMENT OF BOND - 2016  
MENORAH CAMPUS, INC. PROJECT**

A special meeting of the Board of Directors of Town of Amherst Development Corporation (the “Issuer”) was convened in public session at the offices of the Issuer located at 4287 Main Street in the Town of Amherst, Erie County, New York on February 26, 2016 at 8:30 o’clock, a.m., local time.

The meeting was called to order by the (Vice) Chairman of the Issuer and, upon roll being called, the following members of the Board of Directors of the Issuer were:

**PRESENT:**

Carlton N. Brock, Jr.	Chairman
Michele F. Marconi	Vice-Chairman
Aaron J. Stanley	Treasurer
E. Marshall Wood, Jr.	Secretary
Steven Sanders	Assistant Treasurer
Edward F. Stachura	Member
Michael R. Szukala	Member

**ABSENT:**

**ISSUER STAFF PRESENT INCLUDED THE FOLLOWING:**

James J. Allen	Chief Executive Officer/Executive Director
David S. Mingoia	Deputy Director
Nathan S. Neill, Esq.	Issuer Counsel
Terrence Gilbride, Esq.	Bond Counsel

The following resolution was offered by \_\_\_\_\_, seconded by \_\_\_\_\_, to wit:

Resolution No. \_\_\_\_

**RESOLUTION AUTHORIZING THE EXECUTION BY TOWN OF AMHERST  
DEVELOPMENT CORPORATION OF CERTAIN AGREEMENTS IN CONNECTION  
WITH THE MENORAH CAMPUS, INC. PROJECT.**

WHEREAS, Town of Amherst Development Corporation (the “Issuer”) was created pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York, as amended (the “Enabling Act”). Pursuant to the provisions of the Enabling Act and Revenue Ruling 57-187 and Private Letter Ruling 200936012, the Town Board of Town of Amherst, New York (the “Town”) adopted a resolution on October 5, 2009 (the “Sponsor Resolution”) (A) authorizing the incorporation of Town of Amherst Development Corporation (the “Issuer”) under the Enabling Act and (B) appointing the initial members of the board of directors of the Issuer. In February, 2010, a certificate of reincorporation was

filed with the New York Secretary of State's Office (the "Certificate of Reincorporation") creating the Issuer as a public instrumentality of the Town; and

WHEREAS, the Issuer is authorized and empowered by the provisions of the Enabling Act to relieve and reduce unemployment, promote and provide for additional and maximum employment, better and maintain job opportunities, and lessen the burdens of government and act in the public interest, and in carrying out the aforesaid purposes and in exercising the powers conferred in the Enabling Act, the Enabling Act declares that the Issuer will be performing essential governmental functions; and

WHEREAS, to accomplish its stated purposes, the Issuer is authorized and empowered under the Enabling Act to acquire real and personal property; to borrow money and issue negotiable bonds, notes and other obligations therefore; to lease, sell, mortgage or otherwise dispose of or encumber any of its real or personal property upon such terms as it may determine; and otherwise to carry out its corporate purposes in the territory in which the operations of the Issuer are principally to be conducted; and

WHEREAS, on October 19, 2010, the Issuer issued its Tax-Exempt Multi-Mode Revenue Bonds (Menorah Campus, Inc. Project), Series 2010A in the original aggregate principal amount of \$12,530,000 (the "Bonds") for the benefit of Menorah Campus, Inc., a New York not-for-profit corporation (the "Company") for the purpose of financing a portion of the costs of the following project (the "Project"): (A) the refinancing of certain outstanding obligations incurred by the Company with respect to the construction and equipping of the real property and improvements known as the "Meadows", a 56,700 square foot senior housing facility containing 64 units, located at 2700 N. Forest Rd., Amherst, New York, the "Garden House I", a 38,000 square foot senior housing facility containing 48 units located at 2700 N. Forest Rd., Amherst, New York and the "Garden House II", a 37,000 square foot senior housing facility containing 48 units located at 2700 N. Forest Rd., Amherst, New York (collectively the "Project Facility"); (B) the financing of all or a portion of the costs of the foregoing by the issuance of the Bonds; and (C) paying a portion of the costs incidental to the issuance of the Bonds; and

WHEREAS, the Bonds were issued pursuant to a trust indenture dated as of October 15, 2010 (the "Indenture") by and between the Issuer and Manufacturers and Traders Trust Company, as trustee (the "Trustee") for the holders of the Bonds and various other documents, including a loan agreement dated as of October 15, 2010 (the "Loan Agreement") by and between the Issuer, as lender, and the Company, as borrower; a pledge and assignment dated as of October 15, 2010 (the "Pledge and Assignment") from the Issuer to the Trustee, and acknowledged by the Company; and a guaranty dated as of October 15, 2010 (the "Guaranty") from the Company to the Trustee

WHEREAS, the Bonds were purchased by Manufacturers and Traders Trust Company, as initial purchaser of the Bonds (the "Bank") according to the terms of a bond purchase agreement dated October 15, 2010 (the "Initial Bond Purchase Agreement") by and among the Issuer, the Company, the Trustee and the Bank; and

WHEREAS, on September 23, 2013, the Company entered into (A) a collateral mortgage in an amount equal to the unpaid principal amount of the Bonds as of September 1, 2013 encumbering Stovroff Towers Apartments (the "Mortgage") from the Company to the Issuer which Mortgage was assigned to the Bank pursuant to an assignment of collateral mortgage dated as of September 1, 2013 (the "Mortgage Assignment") and (B) certain amendments (the "Amendments") to the Financing Documents (as defined in the Amended and Restated Indenture, as hereinafter defined), including the modification of certain debt service coverage ratios pursuant to an amendment to the Bond Purchase Agreement dated as of September 1, 2013 (the "Amendment to Bond Purchase Agreement") by and among the Company, the Bank, the Trustee and the Issuer; and

WHEREAS, pursuant to the Amendments, (A) the Issuer and the Trustee entered into an amended and restated Indenture dated as of September 1, 2013 (the “Amended and Restated Indenture”) and (B) the Issuer issued amended and restated Bonds (the “Amended and Restated Bonds”); and

WHEREAS, by letter dated February 19, 2016 from the Company (the “Modification Request”), a copy of which was presented to the members of the Board of Directors of the Issuer at this meeting and is attached hereto as Exhibit A and made a part hereof, the Company has informed the Issuer that the Bank and the Company are desirous of modifying the terms of the Bonds and the Financing Documents as outlined in the Modification Request (the “Modification”), if necessary, so as to implement the Modifications and to make other changes necessary to effectuate the foregoing; and

WHEREAS, the Issuer is willing to consent to the Modification Request and to execute and deliver any documents deemed necessary or desirable in connection with the Modification Request (collectively, the “Modification Documents”), subject to the terms of this Resolution; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), it appears that the Modification constitutes a Type II action under SEQRA;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE BOARD OF DIRECTORS OF TOWN OF AMHERST DEVELOPMENT CORPORATION, AS FOLLOWS:

Section 1. Based upon an examination of the Modification Request, the Issuer hereby makes the following findings and determinations:

(A) The Modification Request constitutes a “Type II action” pursuant to 6 NYCRR 617.5(c)(23), and therefore that, pursuant to 6 NYCRR 617.6(a)(1)(i), the Issuer has no further responsibilities under SEQRA with respect to the Modification Request.

(B) Based on representations made by the Company to the Issuer, no other changes are proposed for (1) the description of the Project or (2) the Financing Documents.

(C) No Financial Assistance in excess of \$100,000 is being granted to the Company, accordingly, no public hearing under Section 859-a of the Act is required.

(D) By virtue of the Act, the Issuer 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.

(E) The approval of the Modification Request and the Modification Documents will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of the Town of Amherst, Erie County, New York and the State of New York and improve their standard of living.

(F) It is desirable and in the public interest for the Issuer to comply with the Modification Request and the execution and delivery of the Modification Documents, subject to Section 2 below.

Section 2. The Issuer hereby consents to the Modification Request and the execution and delivery of the Modification Documents; provided, however, that such consent is contingent upon (A) the consent of the Bank, (B) approval by Bond Counsel and Issuer Counsel of the form of the Modification Documents, (C) compliance with the terms and conditions contained in the Financing Documents, (D) compliance with applicable state and federal law, (E) the payment by the Company of all fees and expenses of the Issuer in connection with the delivery of such consent, including, the administrative fee of the Issuer, if any, and the fees of Issuer Counsel and Bond Counsel, and (F) the following additional conditions: \_\_\_\_\_.

Section 3. Subject to the satisfaction of the conditions described in Section 2 hereof, the (Vice) Chairman or Chief Executive Officer of the Issuer is hereby authorized to execute and deliver the Modification Documents and any additional documents, terms, or amendments to the Financing Documents approved by the Bank and the Company (collectively, the "Modification Agreements") to the Company, and, where appropriate, the Secretary (or Assistant Secretary) of the Issuer is hereby authorized to affix the seal of the Issuer thereto and to attest the same, with such changes, variations, omissions and insertions as the (Vice) Chairman or Chief Executive Officer shall approve, the execution thereof by the (Vice) Chairman or Chief Executive Officer to constitute conclusive evidence of such approval.

Section 4. The officers, employees and agents of the Issuer are hereby authorized and directed for and in the name and on behalf of the Issuer to do all acts and things required or provided for by the provisions of the Modification Agreements, and to execute and deliver all such additional certificates, instruments and documents, to 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 Issuer with all of the terms, covenants and provisions of the Modification Agreements binding upon the Issuer.

Section 5. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Carlton N. Brock, Jr.	VOTING	_____
Michele F. Marconi	VOTING	_____
Aaron J. Stanley	VOTING	_____
E. Marshall Wood, Jr.	VOTING	_____
Steven Sanders	VOTING	_____
Edward F. Stachura	VOTING	_____
Michael R. Szukala	VOTING	_____

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK                    )  
  ) SS.:  
COUNTY OF ERIE                     )

I, the undersigned (Assistant) Secretary of Town of Amherst Development Corporation (the “Issuer”), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Board of Directors of the Issuer, including the Resolution contained therein, held on February 26, 2016 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of the whole of such proceedings of the Issuer and of such Resolution set forth therein so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Board of Directors of the Issuer had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the “Open Meetings Law”), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Board of Directors of the Issuer present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Issuer this \_\_\_\_ day of February, 2016.

\_\_\_\_\_  
(Assistant) Secretary

(SEAL)

EXHIBIT A  
MODIFICATION REQUEST  
SEE ATTACHED