

TOWN OF AMHERST DEVELOPMENT CORPORATION

**Finance & Audit Committee Meeting
Agenda**

**December 16, 2022 – 8:30 am
Agency Offices, 4287 Main Street**

1. Roll Call of Members
2. Reading an approval of Minutes
3. New Business
 - a. Modification to Tax Exempt Bond Issue – 2017 Summit Resources, Inc.
4. Adjournment

TOWN OF AMHERST DEVELOPMENT CORPORATION
Minutes of the Finance & Audit Committee Meeting
March 3, 2022 – 8:30 AM
Agency Office, 4287 Main Street

Audit & Finance Committee:	Anthony Agostino Hadar Borden
Guests:	Carlton N. Brock, Jr. William W. Tuyn Hon. Timothy Drury Frank LoTempio III David S. Mingoia Joann Piasecki Randy Sheppard Jacqui Berger

Mr. Agostino opened the meeting at 8:44 AM and requested a motion to approve the previous meeting's minutes. Ms. Borden made the motion and it carried unanimously.

Mr. Mingoia introduced Mr. Sheppard from Bonadio Group who provided an overview of the draft 2021 ADC Audit. After discussion, Ms. Borden made a motion to forward the document to the Board of Directors. The motion carried unanimously.

Ms. Borden made a motion to end the meeting at 8:52 AM, and it carried unanimously.

**BOARD OF DIRECTORS**

Mark E. Brand, Esq.
Lisa Burrows-MacLean, Ph.D.
John R. Cinquino, B.S.
Rahsaan DeLain, M.S.
Tony DeSimone, M.B.A.
Kathy R. Doody, Ph.D.
Greg Fabiano, Ph.D.

Frederick G. Floss, Ph.D.
John T. Gavigan, M.B.A.
Daniel P. O'Neill, J.D.
Cindy Romanowski, M.D.
Eric C. Saenger, M.B.A.
Elizabeth M. Schachtner, M.B.A.
Kenneth L. Sniatecki, B.S.

EMERITUS MEMBERS

Anthony M. D'Auria, B.A.
Colleen M. Seminara, Esq.
Robert E. Spangenthal, Esq.
Sujata Yalamanchili, M.B.A., Esq.

■ **CHIEF EXECUTIVE OFFICER** Stephen R. Anderson, Ph.D., BCBA-D, LBA

December 8, 2022

Town of Amherst Development Corporation
4287 Main Street
Amherst, New York 14226-3504
Attn: Mr. David Mingoia, CEO

Re: Request for Bond Modifications – Series 2017 A Bonds
LIBOR based rate of interest to SOFR based rate of interest

Dear Mr. Mingoia:

We are writing to request that the Town of Amherst Development Corporation (the “Issuer”) consider and approve certain modifications relating to the bond described below in order to change the variable rate index used to determine the Tax-Exempt Bond Rate (such terms are defined in the underlying financing documents) from the one-month London Inter-Bank Offered Rate (“LIBOR”), which is being discontinued, to the Secured Overnight Financing Rate (“SOFR”):

- \$5,917,799 original principal amount tax-exempt, bank eligible industrial development revenue bond, Series 2017 A for The Summit Center, Inc.

We are not requesting any new financial assistance. The maturity date of the bond will not be affected (extended or shortened) as a result of the requested modifications and no new money will be borrowed. The request is limited to modifications to the bond and underlying financing documents necessary to implement the change from LIBOR to SOFR

We respectfully ask that the Issuer consider this request expeditiously so that we can complete the modification by or close to year end.

Please let me know if you have any questions or need further information. I can be reached at lfoti@thesummitcenter.org or 716-629-3450.

Very truly yours,

Lisa A. Foti, CPA
Chief Financial Officer
The Summit Center, Inc.

cc via email: Gary R. Maas, Esq.
Christopher C. Canada, Esq.
Nicholas S. Gatto, Esq.
Terrence M. Gilbride, Esq.

**RESOLUTION TO RECOMMEND MODIFICATIONS
THE SUMMIT CENTER, INC. PROJECT**

A regular meeting of the Finance and Audit Committee (the “Committee”) of the 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 December 16, 2022 at 8:30 o’clock, a.m., local time.

The meeting was called to order by the Chairperson of the Committee and, upon roll being called, the following members of the Committee were:

PRESENT:

Anthony T. Agostino	Chairperson
Hadar Borden	Member
Nicole Gavigan	Member

ABSENT:

ISSUER STAFF PRESENT INCLUDED THE FOLLOWING:

David S. Mingoia	Chief Executive Officer
Kevin J. Zanner, Esq.	Issuer Counsel
Terrence M. Gilbride, Esq.	Bond Counsel

The following resolution was offered by _____, seconded by _____, to wit:

Resolution No. ____

RESOLUTION RECOMMENDING THAT THE BOARD OF DIRECTORS OF TOWN OF AMHERST DEVELOPMENT CORPORATION (THE “ISSUER”) ADOPT A RESOLUTION TO AUTHORIZE (A) CERTAIN AMENDMENTS BY THE ISSUER TO ITS TAX-EXEMPT REVENUE BOND (THE SUMMIT CENTER, INC. PROJECT), SERIES 2017A ISSUED BY THE ISSUER ON DECEMBER 28, 2017 IN THE ORIGINAL PRINCIPAL AMOUNT OF \$5,917,799 AND (B) THE EXECUTION OF RELATED DOCUMENTS.

WHEREAS, pursuant to a requirement under Chapter 506 of the 2009 Laws of the State of New York (the “Public Authorities Reform Act”), the Committee is responsible for reviewing proposals for the issuance of debt by the Issuer and its subsidiaries and making recommendations on such issuances; and

WHEREAS, on December 28, 2017, the Issuer issued its Tax-Exempt Revenue Bond (The Summit Center, Inc. Project), Series 2017A in the original principal amount of \$5,917,799 (the “Bond”); and

WHEREAS, the Bond was issued pursuant to a resolution adopted by the board of directors of the Issuer on December 8, 2017 (the “Bond Resolution”), a certificate of determination dated December 28, 2017 executed by the Chairman, Vice Chairman, Chief Executive Officer, Secretary or Assistant Secretary

of the Issuer (“Certificate of Determination”) and a bond purchase and disbursing agreement dated as of December 1, 2017 (the “Bond Purchase Agreement”) by and among the Issuer, The Summit Center, Inc. (the “Company”), 233 Genesee Street Corporation, as initial holder of the Bond (the “Holder”) and M&T Bank, as disbursing agent (the “Disbursing Agent”); and

WHEREAS, the Bond was issued for the purpose of financing a portion of the costs of a certain project (the “Project”) undertaken for the benefit of the Company consisting of the following: (A) the refinancing of certain outstanding obligations incurred by the Company with respect to the construction and equipping of various facilities providing educational services for developmentally disabled children and adults, located at 150 Stahl Road, 165 Creekside Drive, 25 Woodridge Drive and 55-75 Pineview Drive in the Town of Amherst, Erie County, 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 Bond; and (C) paying a portion of the costs incidental to the issuance of the Bond, including issuance costs of the Bond and any reserve funds as may be necessary to secure the Bond; and

WHEREAS, pursuant to the Bond Purchase Agreement, the Bond is currently in the Bond Rate and bears interest at a rate based on LIBOR (as each such term is defined in the Bond Purchase Agreement); and

WHEREAS, the Issuer has been notified by the Company and the Holder that (A) the Company wishes to replace LIBOR with the Secured Overnight Financing Rate (“SOFR”) to calculate interest on the Bond while in the Bond Rate (the “Proposed Action”) and (B) the Company and the Holder have requested that the Issuer enter into modifications to the Bond and the related Financing Documents necessary to implement the Proposed Action; and

WHEREAS, in connection therewith, the Issuer, the Company, the Holder and the Disbursing Agent desire to enter into (A) an omnibus amendment to the Bond Purchase Agreement and related financing documents (the “Omnibus Amendment”) by and among the Issuer, the Company, the Holder and the Disbursing Agent and (B) certain other documents modifying the terms of the Financing Documents (the Omnibus Amendment and such other documents are hereinafter referred to as the “Modification Documents”) in order to implement the Proposed Action; and

WHEREAS, Issuer staff and counsel to the Issuer have provided information to the Committee respecting the Proposed Action and the Modification Documents; and

WHEREAS, the members of the Committee have reviewed such further information and have discussed same with Issuer staff and counsel to the Issuer;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE FINANCE AND AUDIT COMMITTEE OF THE TOWN OF AMHERST DEVELOPMENT CORPORATION AS FOLLOWS:

Section 1. Based on the foregoing recitals, the members of the Committee hereby recommend that the board of directors of the Issuer adopt a resolution to authorize the Proposed Action and the execution of the Modification Documents in connection therewith.

Section 2. 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:

Anthony T. Agostino	VOTING	_____
Hadar Borden	VOTING	_____
Nicole Gavigan	VOTING	_____

The foregoing resolution was thereupon declared duly adopted.

[Remainder of page left blank intentionally]

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 Finance and Audit Committee of the Issuer (the “Committee”), including the resolution contained therein, held on December 16, 2022 with the original thereof on file in my office, and that the same is a true and correct copy of such proceedings of the Committee and of such resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Committee 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 of the State of New York (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 Committee 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 December, 2022.

BY: _____
(Assistant) Secretary

(SEAL)