

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
Agenda – 539th Meeting
Friday, February 17, 2023-8:30 am

James J. Allen Boardroom
Agency Offices – 4287 Main Street, Amherst, NY 14226

1. Roll Call of Members
2. Reading and Approval of Minutes
3. Bills & Communications
4. Treasurer's Report
5. Public Comment
 - a. Speakers Limited to Three (3) Minutes
6. Executive Director's Report
7. Committee Reports
 - I. Audit & Finance Committee
 - 2022 Audited Financial Statements
 - II. Nominating Committee
 - 2023 Election of Officers
 - 2023 Committee Assignments
8. Unfinished Business
9. New Business
 - I. Depository Certificate
 - Key Bank
 - M & T Bank
10. Adjournment

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

**Minutes of the 538th Meeting
Friday, December 16, 2022 – 8:38 am
James J. Allen Boardroom
Agency Offices, 4287 Main Street**

PRESENT: Carlton N. Brock, Jr.
William Tuyn
Anthony Agostino
Timothy Drury
Hadar Borden
Frank LoTempio, III
Nicole Gavigan
David S. Mingoia, Executive Director
Kevin J. Zanner, Hurwitz & Fine PC

GUESTS : AIDA Staff

Chairman Carlton Brock called the meeting to order and reminded everyone the meeting was being video recorded and live-streamed.

MINUTES

Upon a motion by Frank LoTempio, seconded by Anthony Agostino and unanimously carried, the minutes of the October 2022 meeting were approved as presented.

BILLS & COMMUNICATIONS

There were no Bills & Communications presented at this meeting.

TREASURER'S REPORT

Treasurer Agostino reviewed the highlights of the Treasurer's Report for October and November 2022.

Upon a motion by Frank LoTempio, seconded by Hadar Borden and unanimously carried, the Treasurer's Reports for October and November 2022 were approved as presented.

PUBLIC COMMENT

There was no Public Comment at this meeting.

EXECUTIVE DIRECTOR'S REPORT

Attached to the minutes is the Executive Director's Report.

COMMITTEE REPORTS

Executive Director requested that a Nominating Committee be established for the 2023 Board of Directors.

William Tuyn made a motion to establish a Nominating Committee of Hadar Borden and Anthony Agostino. The motion was seconded by Frank LoTempio. Votes of aye were cast by Brock,

Tuyn, Agostino, Drury, Borden, LoTempio and Gavigan. Motion to the establish the nominating committee passed by a vote of 7-0.

UNFINISHED BUSINESS

There was no Unfinished Business presented at this meeting.

NEW BUSINESS

I. Amendment to Authorization Resolution – Stark Real Estate Holdings, LLC

The Agency received a request from Stark Reals Estate Holdings, LLC to amend the its 2021 Authorization Resolution. By letter dated October 31, 2022, the Company informed the Agency of several substantive changes to the Project which were necessitated by the COVID-19 pandemic and supply chain issues.

The proposed changes include a redesign of the Project to include LEED Silver and WELL Building designations in order to reduce the Company’s carbon footprint in support of federal and state environmental goals at the Project’s 2100 Wehrle Drive location, and the Company also informed the Agency that it is no longer seeking benefits for the portion of the Project which was to have been undertaken at 60 Lawrence Bell Drive, which is not moving forward at this time;

Executive Director Mingoia presented an updated Cost Benefit Analysis of the proposed amended project to the board.

After a brief discussion, a motion to approve the amended authorization resolution for Stark Real Estate Holdings, LLC project was made by Frank LoTempio. William Tuyn seconded the motion to approve. Votes of aye were cast by Brock, Tuyn, Agostino, Drury, Borden, LoTempio and Gavigan. Motion to approve passed 7-0.

II. Draft 2023 BOD Meeting Schedule

Executive Director dispersed a Draft 2023 Board Meeting Schedule. He asked the Board to let know of any conflicts or concerns they might have.

9:16 am – Frank LoTempio made a motion to adjourn the meeting. Anthony Agostino seconded the motion. Motion to adjourn passed unanimously.

9. NEW BUSINESS

I. Depository Certificate

Both M & T Bank and Key Bank are each requesting by resolution, that the Amherst IDA designate them as depositories for AIDA funds and that the Agency further designate Carlton Brock, William Tuyn, Anthony Agostino and David Mingoia, as the Executive Committee, as signatories on accounts being held at M & T Bank and/or Key Bank, NA.

Company Name: AMHERST INDUSTRIAL DEVELOPMENT

State of Organization: NEW YORK

Principal Address of Business: 4287 MAIN ST
AMHERST NY 14226-3504

For purposes of this Certificate, "Company" shall refer to any of the entities or organizations listed below. "Officer" shall mean any officer or other duly-authorized representative.

SOLE PROPRIETORSHIP: The undersigned hereby certifies that he/she is the sole owner of the above-named business with its principal place of business at the above address, which is a trade name used by the Company for the conduct of this business, and further certifies that the Company is an unincorporated form of business, and in consideration of the acceptance of the Company's depository accounts by the Bank, the undersigned hereby agrees to and adopts the resolutions below.

PARTNERSHIP: The undersigned hereby certifies that each of them is a duly authorized general partner of the above-referenced partnership, whether general or limited with its principal place of business at the above address; and in consideration of the acceptance of the Company's depository accounts by Bank, the Company hereby agrees to and adopts the resolutions below.

LIMITED LIABILITY COMPANY: The undersigned hereby certifies to that each is a member / manager of the above-named limited liability company , which is duly organized, validly existing and in good standing under the laws of the state of its organization, with its principal place of business at the above address, and further certifies that each of them is either (a) a member and the management of the Company is reserved to its members, or (b) a manager and the management of the Company is reserved to its managers, and in consideration of the acceptance of the Company's depository accounts by Bank, the Company hereby agrees to and adopts the resolutions below.

CORPORATION: The undersigned hereby certifies to Bank that she/he is the secretary or other authorized officer of the above named corporation, including nonprofit corporations , which is duly organized, validly existing and in good standing under the laws of the state of its incorporation, with its principal place of business at the above address, and further certifies that the following is a true copy of the resolutions in full force and effect which were duly adopted at a meeting of the Board of Directors/Trustees of the Company, duly held pursuant to notice and at which a quorum was present and acting throughout, or by unanimous written action/consent of all members of the Board of Directors/Trustees, in accordance with applicable state laws; and said proceedings and the Resolution adopted thereby are in conformity with and do not in any respect contravene the provisions of applicable statutes, the Articles of Incorporation, Corporate Charter, Code of Regulations, or Bylaws of the Company.

PUBLIC ENTITY: The undersigned hereby certifies that he/she is the secretary or other authorized officer of the board of trustees (or such other governing body as is authorized to designate depositories and to transact or delegate the authority to transact the banking business of the Public Entity) of the Public Entity, which is duly organized, validly existing and in good standing under the laws of the applicable governmental unit, political subdivision or instrumentality, with its principal place of business at the above address, and the undersigned further certifies that the following is a full and true copy of resolutions duly adopted at a meeting of the board of trustees or other governing body of the Public Entity in accord with and pursuant to the charter and organizational documents of the Public Entity and such resolution is now in full force and effect, and said proceedings and the Resolution adopted thereby are in conformity with and do not in any respect contravene the provisions of applicable statutes, regulations, administrative code or other document governing or in effect for the Public Entity.

TRUST: The undersigned hereby certifies that he/she is a duly appointed and authorized trustee of the above-referenced trust, or, in the case of corporate trustees, the duly authorized representative of that trustee, and that the appointment is current and in force, and further certifies that the trust instrument and applicable law authorize him/her to enter into this Certificate and other contractual obligations. In the event that there is more than one trustee, the undersigned certifies that he/she has the authority to act independently on behalf of the trust. The undersigned hereby affirms the provisions of the resolution below.

UNINCORPORATED ASSOCIATION: The undersigned hereby certifies that he/she is the secretary of the above-named unincorporated association or organization, , and that the following is a full and true copy of resolutions duly adopted at a meeting of the membership, executive committee, directors, or trustees, the governing body of the Company, duly held pursuant to notice and at which a quorum was present and acting throughout, and the same are now in full force; and further certifies that the referenced governing body is the duly authorized body to adopt these resolutions and that these resolutions and the powers granted therein conform to the organizational documents of the Company now in force and effect, and that the Bank may conclusively assume that persons so certified to be signatories of the Company shall continue as such until receipt by the Bank of written notice to the contrary.

RESOLVED:

1. That Bank is designated a depository of this Company, and that any one of the following officers of the Company ("Authorized Officers") are authorized to open and close accounts ("Accounts") and to designate Signers (defined below) for Accounts opened with the Bank:

Authorized Officer Name	Authorized Officer Title	Authorized Officer Email Address	Legal Signature
CARLTON N BROCK JR	CHAIRMAN		
DAVID S MINGOIA	EXECUTIVE DIRECTOR		
ANTHONY AGOSTINO	TREASURER		
WILLIAM TUYN	VICE CHAIRMAN		

If this entity has additional Authorized Officers enter Officer's information on page 4 and check here:

2. That funds deposited with Bank may be withdrawn by checks, drafts, or other orders issued in the name of the Company, signed by any one or more officers, members, managers, or partners of the Company or by any one or more persons, whether or not an officer, member, manager, or partner of the Company, identified on signature cards delivered to the Bank from time to time ("Signers") by any one of the Authorized Officers of the Company; that Bank may accept the instructions of any Signer for the transaction of all business in connection with said funds; and that the Bank may conclusively assume that each Signer shall continue as such until receipt by the Bank of written notice to the contrary, such notice to be given to each office of the Bank in which any account of this Company may be maintained.

3. That Bank is authorized to rely upon and to accept as genuine and authorized the facsimile signature of any Signer or such signatures that resemble facsimile signatures on any check, draft or other order, without any duty to determine the genuineness of the such facsimile signature or whether it was authorized by the Company.

4. That Bank is hereby authorized to honor, receive, and pay all such instruments when signed in accordance with this Resolution, without inquiry as to the circumstances of their issue or the disposition of their proceeds, whether drawn to the individual order of or tendered in payment of individual obligations of any Signer or of any other officer, employee or agent of Company, or otherwise.

5. That all checks, drafts, or other orders for the payment of money belonging to Company may be endorsed in blank, or otherwise, on behalf of Company, by a written or stamped endorsement, and Bank is authorized to honor and pay such instruments and also to receive the same for the individual credit of or in payment of the individual obligation of any Signer, or any other officer, employee or agent of Company, or any other holder, without inquiry as to the circumstances of endorsement or the disposition of the proceeds, and Company hereby guarantees to Bank the payment of all such instruments so received by Bank as well as those instruments deposited on behalf of Company for collection or credit without its endorsement appearing thereon; and that Bank may pay to any Signer or any other officer, employee or agent of Company the proceeds, in cash or otherwise, of any instrument referred to herein, signed or endorsed in the manner above indicated, whether the same be drawn on Bank, on another bank, or otherwise, and whether payable or endorsed to Company, bearer, Bank or otherwise.

6. That all present and future rules and regulations of Bank governing Accounts are hereby assented to and shall be binding upon Company; that any statements, unpaid items, canceled vouchers or checks may be delivered to Company by mailing the same to the last known address of the Company as shown by the records of the Bank or by delivering the same to any Signer, or any other officer, manager, member, partner, employee or agent of Company, and any and all such deliveries by Bank shall constitute good and valid deliveries to Company.

7. That any Signer is authorized and empowered to apply to Bank for the use of its night depository facilities, including automated teller machines, and in connection with such use to execute and deliver to Bank such agreements containing such terms and provisions as Bank may require, and in the event any such agreement contemplates that bags of Company found by Bank in any of its night depository receptacles are to be received and receipted for by Company, then any Signer is authorized and empowered to receive and receipt for any such bags and to (i) designate any person or persons who shall each be authorized to receive and receipt for any such bags; (ii) in writing revoke the authority of any persons so designated; and (iii) certify the name of each such designated person to Bank together with a specimen signature of such person.

8. That any Signer is hereby authorized to open safekeeping accounts, or give any instructions to the Bank for the transfer of funds and for the purchase, sale, delivery, exchange, or other disposition of any stocks, bonds, acceptances, certificates of deposit, or other securities and foreign exchange or the proceeds thereof, or purchase services to be performed or made available by Bank, and may execute and deliver to the Bank in connection therewith any appropriate agreement, contract, instrument, indemnity agreement, assignment, or endorsement in the name of the Company.

9. That Authorized Officers can execute and deliver, or authorize other officers or employees of the Company in writing to execute and deliver, agreements for cash management or other treasury services and bind the Company thereto.

10. That all controversies and questions regarding this Certificate shall be governed by and construed under the laws of the State of Ohio (without regard for conflict of law rules) and applicable federal law.

11. That this Certificate shall remain in full force and effect until written notice of amendment or rescission shall have been received by Bank, and that receipt of notice shall not affect action taken by the Bank prior to such receipt. That all previous authorizations for the signing and honoring of items are hereby ratified and continued in full force and effect. The Company agrees to indemnify and hold the Bank harmless from any and all claims, suits, judgments, losses, costs and expenses (including reasonable attorneys' fees) that Bank may incur as a result of the Bank continuing to act in pursuance of this Agreement.

IN WITNESS WHEREOF, Company has signed below by a duly authorized officer.

Signature: _____ Date: _____
Authorized Officer

Printed Name: DAVID S MINGOIA Title: EXECUTIVE DIRECTOR

Authorized Officer and/or Authorized Officer's signature above has been identified/verified by an authorized representative of Bank:

Signature: _____ Date: _____
Bank Representative

Printed Name: _____ Title: _____

Notarization required if document is not signed in the presence of a Bank employee.

*State of _____)
County of _____) ss.

The forgoing instrument was acknowledged before me this _____ day of _____, 20____ by _____
Printed Name of Authorized Officer

Signature of Notary Public

My commission expires: _____

I, the duly appointed Secretary or other officer, member, partner, (sole) proprietor, or representative of Client, being duly authorized to certify the approved actions of the above-named Client, hereby certify that, at a meeting of Client's board of directors or other governing body duly called and held, or by unanimous written consent or other method provided by Law or governing document, the following resolutions, or resolutions consistent with and equivalent to the following resolutions, ("Resolutions") were duly adopted or are hereby adopted; are in full force and effect and have not been rescinded, revoked, or modified; and none of the Resolutions nor any action pursuant to them will violate any Law or Client's governing documents, or any agreement or document by which Client or any of its assets is bound.

RESOLVED: that

1. Client designates M&T Bank ("M&T") as its depository.
2. The person(s) signing below are authorized to open the Account or Box and to designate, or certify to the designation of, the Authorized Signers.
3. Any Authorized Signer may, on behalf of Client, transact with and through M&T all business relating to the Account, or any Box, in his/her discretion and in accordance with the Commercial Deposit Account Agreement ("CDAA") or other applicable agreement, including, but not limited to, depositing funds to and withdrawing funds from the Account by any means M&T permits (e.g., signing, endorsing, negotiating, or taking any action with respect to checks and other Items; using an ATM or debit card; initiating funds transfers); obtaining services in connection with the Account; granting security interests or other rights in the Account by any means; incurring and paying liabilities, fees, costs, and expenses; updating Account or Box information; adding and removing Authorized Signers; and closing the Account or Box.
4. Any Authorized Signer may, on behalf of Client, enter into, amend, or terminate agreements and other documents relating to the Account or Box, or services provided in connection therewith ("Services"), including, but not limited to, agreements for ATM or debit cards, treasury management services, or funds transfers, waivers, releases, indemnities, and assignments.
5. Any Authorized Signer may, on behalf of Client: (a) give notices, certifications, directions, instructions, orders, and waivers (collectively, "Directions") relating to the Account, Box, or Services and serve as M&T's contact for notices, demands, directions, and instructions from M&T relating to the Account, Box, or Services; and (b) delegate authority to any other person or entity to act on Client's behalf in any way relating to the Account, Box, or Services (e.g., electronic banking, transaction initiation), which persons and entities may or may not be signers on the Account or Box and may or may not have the ability to delegate authority to others. M&T may act on any Directions or delegation of an Authorized Signer or delegate without inquiry and without regard to the application of any proceeds, provided that M&T acts in good faith. M&T does not have any obligation to act upon the Directions of any person who is not an Authorized Signer.
6. M&T is authorized and directed to: (a) cash, accept, certify, pay, and otherwise honor all Items or other written instruments or orders for the payment, transfer, or withdrawal of money when such Items, instruments, or orders are signed, drawn, accepted, or endorsed on behalf of Client with the purported actual or facsimile signature of any Authorized Signer or delegate, regardless of how the signature was applied; and (b) accept, pay, and otherwise honor electronic or oral instructions or orders for the payment, transfer, or withdrawal of money when such instructions or orders are submitted, or reasonably believed to have been submitted, by any Authorized Signer or delegate on behalf of Client in accordance with the CDAA or other applicable agreement governing the Account or services provided in connection with the Account.
7. Each Authorized Signer or delegate is authorized to do all things contemplated by these Resolutions through any means M&T permits, including electronically. M&T may rely on any of the following to the same extent as the actual signature or proof of identity of each such person to bind Client: (a) any electronic or digital signature of such person; (b) any identifier (e.g., Personal Identification Number) issued by M&T or any other party to such person; or (c) any other information that M&T may reasonably rely upon to authenticate such person.
8. Each Authorized Signer or delegate, acting alone, is authorized to do all things contemplated by these Resolutions; any requirement of Client that requires the signature, approval, or action of more than one person is solely an internal requirement of Client; and M&T has no duty to enforce any such requirement or any liability in connection therewith.
9. Client understands the authorities being granted to each Authorized Signer or delegate, as set forth herein.
10. Client releases and shall defend and indemnify M&T against all Losses resulting from actions taken or not taken in good faith and in reliance upon these Resolutions and any delegation of authority hereunder.
11. M&T is authorized to rely on these Resolutions and the actual or purported signatures of any of Client's Authorized Signers until Client's account officer has actually received and had a reasonable time to act on written notice from Client revoking these Resolutions or such authority. These Resolutions supersede any resolutions previously provided to M&T by Client.
12. Client is duly organized, validly existing, and in good standing in the state/jurisdiction of its organization. No other action or consent of any other person or entity is necessary for these Resolutions to be effective.

I further certify that each person designated above now holds the title/position listed for such person; each signature appearing above is a true and correct specimen of such person's signature; and the other information appearing above is true and correct for such person.

IN WITNESS WHEREOF, I have executed these Resolutions on behalf of Client on the date set forth below and hereby certify that I have the power and authority to execute and deliver these Resolutions to M&T. If Client is a limited liability company, partnership, or unincorporated association, the individual executing these Resolutions certifies and warrants that he/she has the power and authority to execute these Resolutions on behalf of all of the members, managers, or partners, as applicable.

Client:

_____ Signature of Secretary (or other authorized representative)		
_____ Printed Name	_____ Title	_____ Date

1 Capitalized terms used but not defined herein have the meanings given to them in the Commercial Deposit Account Agreement.