

**INDUCEMENT RESOLUTION
BEECHWOOD HEALTH CARE CENTER, INC. PROJECT**

A regular meeting of Town of Amherst Development Corporation (the “Issuer”) was convened in public session at its offices at 4287 Main Street in the Town of Amherst, Erie County, New York on July 21, 2017, at 8:30 a.m. local time.

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

PRESENT:

Carlton N. Brock	Chairman
Michele F. Marconi	Vice Chairman
E. Marshall Wood, Jr.	Secretary
Steven Sanders	Treasurer
Edward Stachura	Member
Michael R. Szukala, MBA, CIA	Member
William M. Tuyn	Member

ABSENT:

THE FOLLOWING PERSONS WERE ALSO PRESENT:

David S. Mingoia	Executive Director/CEO/CFO
Laure A. Manuszewski	Director of Administrative Services
Kevin J. Zanner, Esq.	Agency Counsel

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

RESOLUTION NO. ____

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, in May, 2017, Beechwood Health Care Center, Inc., a New York not-for-profit corporation (the "Institution"), has submitted an application (the "Application") to the Issuer, a copy of which Application is on file at the office of the Issuer, which Application requested that the Issuer consider undertaking a project (the "Project") for the benefit of the Institution, said Project consisting of the following: (A) (1) the financing of all or a portion of the costs of (a) the renovation and reconstruction of portions of the existing buildings constituting a 272-bed skilled nursing facility which provides both long term care programs and short term care sub-acute services and containing in the aggregate approximately 325,000 square feet of space (collectively, the "Facility") located on a parcel of real estate containing approximately 16.346 acres and having an address of 2235 Millersport Highway in the Town of Amherst, Erie County, New York (the "Land"), and (b) the acquisition and installation therein and thereon of various machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment hereinafter collectively referred to as the "Project Facility"), and (2) the refunding, in whole or in part, of the Town of Amherst Industrial Development Agency's Tax-Exempt Civic Facility Revenue Bonds (Beechwood Health Care Center, Inc. Project), Series 2006A in the original aggregate principal amount of \$14,860,000 (the "Prior Bonds"), which Prior Bonds were issued on January 18, 2007 to undertake the following project (the "Prior Project"): (a) the financing of prior capital projects relating to the Project Facility, including, but not limited, to the reconstruction and renovation of the Facility, the construction of additions to the Facility and the acquisition and installation of machinery and equipment, and (b) the refinancing of certain indebtedness incurred by the Institution in undertaking certain capital improvements at the Project Facility; (B) the financing of all or a portion of the costs of the foregoing by the issuance of revenue bonds of the Issuer in one or more issues or series in an aggregate principal amount sufficient to pay the cost of undertaking the Project, together with necessary incidental costs in connection therewith, presently estimated to be \$9,895,000 and in any event not to exceed \$11,500,000 (the "Obligations"); (C) the payment of all or a portion of the costs incidental to the issuance of the Obligations, including issuance costs of the Obligations and any reserve funds as may be necessary to secure the Obligations; and (D) the making of a loan (the "Loan") of the proceeds of the Obligations to the Institution or such other person as may be designated by the Institution and agreed upon by the Issuer; and

WHEREAS, in response to the receipt by the Issuer of the Application, the Chief Executive Officer of the Issuer (A) caused notice of a public hearing of the Issuer (the "Public Hearing") pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") and, as provided in the Certificate of Incorporation, pursuant to the applicable provisions of Section 859-a and Section 859-b of the General Municipal Law of the State of New York (the "GML"), to hear all persons interested in the Project and the financial assistance being contemplated by the Issuer with respect to the Project, to be published in the Buffalo News, a newspaper of general circulation available to the residents of the Town of Amherst, Erie County, New York, (B) caused notice of the Public Hearing to be posted on (1) in the Amherst Town Clerk's office in the Town of Amherst Town Hall located at 5583 Main Street in the Town of Amherst, Erie County, New York and (2) on the Issuer's website, (C) caused notice of the Public Hearing to be mailed to the chief executive officers of the county and of each city, town, village and school district in which the Prior Project Facility is (or will be) located, (D) conducted the Public Hearing at the offices of the Issuer located at 4287 Main Street in the Town of Amherst, Erie County, New York, and (E) prepared a report of the Public Hearing (the "Public Hearing Report") which fairly summarized

the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the board of directors of the Issuer and to the Town Board of Town of Amherst, New York (the "Town Board"); 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 (the "Regulations", and collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Issuer on July 21, 2017 (the "SEQR Resolution"), the Issuer determined that the Project constitutes a "Type II Action" (as such quoted term is defined under SEQRA), and therefore that no further action with respect to the Project was required under SEQR; and

WHEREAS, the Issuer has given due consideration to the Application, and to representations by the Institution that (A) issuance of the Obligations will be an inducement to the Institution to undertake the Project in the Town of Amherst, New York, and (B) the completion of the Project Facility will not result in the removal of a plant or facility of the Institution or any other proposed occupant of the Project Facility from one area of the State of New York to another area of the State of New York; and

WHEREAS, the Issuer desires to encourage the Institution to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of the Town of Amherst, New York by undertaking the Project in the Town of Amherst, New York; and

WHEREAS, interest on the Obligations will not be excludable from gross income for federal income tax purposes unless (A) pursuant to Section 147(f) of Internal Revenue Code of 1986, as amended (the "Code") and the regulations of the United States Treasury Department thereunder (the "Treasury Regulations"), the issuance of the Obligations is approved by the Town Board of the Town of Amherst, New York after the Issuer has held a public hearing on the nature and location of the Project Facility and the issuance of the Obligations; and (B) pursuant to Section 145(a) of the Code, all property which is to be provided by the net proceeds of the Obligations is to be owned by a Section 501(c)(3) organization or a governmental unit and at least ninety-five percent (95%) of the net proceeds of the Obligations are used with respect to (a) governmental units and/or (b) the activities of Section 501(c)(3) organizations which do not constitute "unrelated trades or businesses" (as defined in Section 513(a) of the Code) with respect to such Section 501(c)(3) organizations; and

WHEREAS, although the resolution authorizing the issuance of the Obligations has not yet been drafted for approval by the Issuer, a preliminary agreement (the "Preliminary Agreement"), the terms of which are set forth in the remainder of this Resolution, relative to the proposed issuance of the Obligations by the Issuer has been presented for approval by the Issuer;

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

Section 1. The Issuer hereby determines that the Project Facility and the financing thereof by the Issuer pursuant to the NFPCL will promote, is authorized by and will be in furtherance of, the policy of the State of New York (the "State") as set forth in said NFPCL. The Issuer further determines that the Project is reasonably necessary to encourage the Institution to undertake the Project in its fullest scope within Erie County, New York.

Section 2. As soon as the Issuer is furnished with sufficient information as to the particular amount, interest rate, maturities, redemption and other proposed terms of the Obligations and subject to agreement among the Issuer, the Institution and the purchaser of the Obligations as to terms in all agreements to be entered into with respect to the Project, the Issuer will use its best efforts to

(A) undertake the authorization, issuance and sale of the Obligations in an amount presently estimated to be approximately \$9,895,000 and in any event not to exceed \$11,500,000 and (B) proceed with the issuance of the Obligations to finance the Project and refund the Prior Bonds.

Section 3. Any such action heretofore taken by the Institution in initiating the Project is hereby ratified, confirmed and approved.

Section 4. Any expenses incurred by the Issuer with respect to the Project shall be reimbursed out of the proceeds of the Obligations, or, in the event such proceeds are insufficient after payment of other costs of the Project or the Obligations are not issued by the Issuer due to inability to consummate the transactions herein contemplated (other than by fault of the Issuer), shall be paid by the Institution. By acceptance hereof, the Institution agrees to pay such expenses and further agrees to indemnify, defend and hold the Issuer (and its members, officers, agents and employees) 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 Issuer in good faith with respect to the Project and the financing thereof.

Section 5. No tenant other than the Institution, its subsidiaries or affiliates shall occupy or tenant the Project unless and until approved by the Issuer. Failure to observe this provision shall result in cancellation of any real property tax abatement granted to the Institution by the Issuer.

Section 6. The Institution will ensure that the acquisition, construction, reconstruction, renovation, installation and operation of the Project Facility will comply with all applicable federal, state and local laws, ordinances, rules and regulations (the applicability of same to be determined both as if the Issuer were the owner of the Project Facility and as if the Institution and not the Issuer were the owner of the Project Facility), and the Institution will obtain all necessary approvals and permits required thereunder.

Section 7. The law firm of Hodgson Russ LLP of Buffalo, New York is hereby appointed Bond Counsel with respect to all matters in connection with the Project and the issuance of the Obligations. The Issuer has been informed that Hodgson Russ LLP has acted as counsel to the Institution on prior matters and will act as counsel to the Institution on this financing. The Issuer will be represented by Hurwitz & Fine, PC, Issuer Counsel, in connection with the financing. Bond Counsel is hereby authorized, at the expense of the Institution, to work with the Institution, the purchasers of the Obligations and others to prepare, for submission to the Issuer, all documents necessary to effect the authorization, issuance, sale and delivery of the Obligations. Bond Counsel is hereby authorized, at the expense of the Institution, to work with the Institution, the purchasers of the Obligations and others to prepare, for submission to the Issuer, all documents necessary to effect the authorization, issuance, sale and delivery of the Obligations.

Section 8. The Institution hereby agrees to indemnify, defend and hold the Issuer (and its members, officers, agents and employees) harmless from all losses, expenses, claims and liabilities arising out of or based on (A) labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition, construction and installation of the Project Facility, including any expenses incurred by the Issuer (and its members, officers, agents and employees) in defending any claims, suits or actions which may arise as a result of any of the foregoing and/or (B) any untrue statement or alleged untrue statement of a material fact included in any written materials relating to the offering or sale of the Obligations or the omission or alleged omission to state therein a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Institution shall not permit to stand, and will, at its own expense, take steps reasonably necessary to remove, any mechanic's or other liens against the Project Facility for labor or material furnished in connection with the acquisition, construction and installation of the Project Facility.

Section 9. The Institution hereby agrees to indemnify, defend and hold the Issuer (and its members, officers, agents and employees) harmless from any and all (A) claims and liabilities for the loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation to the Project and/or the Project Facility, including any expenses incurred by the Issuer (and its members, officers, agents and employees) in defending any claims, suits or actions which may arise as a result of the foregoing; and (B) claims and liability arising from or expenses incurred in connection with the Project or by the Issuer's financing, acquisition, construction, installation, owning and leasing and/or sale of the Project Facility, including all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The Institution shall include the Issuer (and its members, officers, agents and employees) as a named insured under all public liability insurance policies obtained by the Institution with respect to the Project.

Section 10. If any portion of the Financial Assistance to be granted by the Issuer with respect to the Project is not consistent with the Town of Amherst Industrial Development Agency's uniform tax exemption policy, the Issuer will follow the procedures for deviation from such policy set forth in Section 874(b) of the General Municipal Law prior to granting such portion of the Financial Assistance.

Section 11. No Obligations are intended to be issued as obligations the interest on which will be exempt from Federal income taxation unless (A) pursuant to Section 147(f) of the Code and the regulations of the United States Treasury Department thereunder (the "Treasury Regulations") unless the issuance of the Obligations is approved by the Town Board of the Town of Amherst, New York after the Issuer has held a public hearing on the nature and location of the Project Facility and the issuance of the Obligations; and (B) pursuant to Section 145(a) of the Code, all property which is to be provided by the net proceeds of the Obligations is to be owned by a Section 501(c)(3) organization or a governmental unit and at least ninety-five percent (95%) of the net proceeds of the Obligations are used with respect to (1) governmental units and/or (2) the activities of Section 501(c)(3) organizations which do not constitute "unrelated trades or businesses" (as defined in Section 513(a) of the Code) with respect to such Section 501(c)(3) organizations.

Section 12. It is intended that this Resolution shall constitute an affirmative official action toward the issuance of the Obligations within the meaning of Section 1.103-8(a)(5) and Section 1.150-2(e)(1) of the United States Treasury regulations.

Section 13. The Issuer hereby determines that the Issuer has fully complied with the requirements of Section 859-a of the General Municipal Law that relate to the Project.

Section 14. Having reviewed the Beechwood Report, and having considered fully all comments contained therein, the Issuer hereby determines to proceed with the Project and the granting of the financial assistance described in the notice of the Public Hearing.

Section 15. The Issuer hereby authorizes the Institution to proceed with the Project as herein authorized, which Project will be financed through the issuance of Obligations of the Issuer, which bonds will be special obligations of the Issuer payable solely from certain of the revenues and other amounts derived by the Issuer with respect to the Project.

Section 16. The Institution is authorized to initiate and to advance such funds as may be necessary to accomplish such purposes, subject to reimbursement for all qualifying expenditures out of the proceeds of the Obligations to be issued by the Issuer, if and when such Obligations shall be issued by the Issuer. The Issuer is hereby authorized to enter into such agreements with the Institution as the Chairman, Vice Chairman, Secretary or Executive Director may deem necessary in order to accomplish the above.

Section 17. The Chairman, Vice Chairman, Secretary and Executive Director of the Issuer are hereby authorized and directed to take whatever steps may be necessary to undertake the Project, in cooperation with the Institution.

Section 18. This Resolution shall take effect upon the date that all of the following shall have occurred: (A) the Institution shall have accepted the provisions of this Resolution; and (B) the Institution shall have delivered two copies of this Resolution, with the acceptance clauses thereof fully executed by the Institution, to the Chairman or Vice Chairman of the Issuer.

Section 19. 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 the matters contained in Section 4 hereof) unless prior to the expiration of such year the Issuer shall by subsequent resolution extend the effective date of this resolution.

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	VOTING	_____
Michele F. Marconi	VOTING	_____
E. Marshall Wood, Jr.	VOTING	_____
Steven Sanders	VOTING	_____
Edward Stachura	VOTING	_____
Michael R. Szukala, MBA, CIA	VOTING	_____
William M. Tuyn	VOTING	_____

The foregoing Resolution was thereupon declared duly adopted.

ACCEPTANCE

The Institution hereby accepts the provisions of this Resolution, and agrees to comply with such provisions and conditions.

IN WITNESS WHEREOF, the Institution has caused this Acceptance to be executed in its name as of this ____ day of July, 2017.

BEECHWOOD HEALTH CARE CENTER,
INC.

BY: _____
Authorized Officer

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 annexed extract of the minutes of the meeting of the directors of the Issuer, including the Resolution contained therein, held on July 21, 2017 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained 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 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 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 21st day of July, 2017.

(Assistant) Secretary

(SEAL)