

**Amsterdam House Continuing Care Retirement Community, Inc.  
Further Amended Approving Resolution**

A regular meeting of the Nassau County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency at 1550 Franklin Avenue, Mineola, Nassau County, New York, on October 15, 2014, at 5:00 p.m. local time.

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

**PRESENT:**

Timothy Williams	Chairman
John Coumatos	Vice Chairman
Gary Weiss	Secretary
Michael Rodin	

**ABSENT:**

Christopher Fusco	Asst. Secretary
-------------------	-----------------

**THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:**

Joseph J. Kearney	Executive Director
Joseph Foarile	Chief Financial Officer
Colleen Pereira	Administrative Director
Nicholas Terzulli	Director of Business Development
Edward Ambrosino, Esq.	General Counsel
Paul O'Brien, Esq.	Bond/Transaction Counsel
Milan K. Tyler, Esq.	Bond/Transaction Counsel

Rodin: The attached resolution no. 2014-70 was offered by G. Weiss, seconded by M.

Resolution No. 2014-70

RESOLUTION TAKING FURTHER OFFICIAL ACTION TOWARD AND  
PROVIDING ADDITIONAL FINANCIAL ASSISTANCE IN CONNECTION  
WITH A CERTAIN PROJECT FOR AMSTERDAM HOUSE CONTINUING  
CARE RETIREMENT COMMUNITY, INC.

WHEREAS, the Nassau County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act"), and Chapter 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, industrial and commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, on or about April 6, 2007, Amsterdam House Continuing Care Retirement Community, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York (the "Applicant"), presented an application to the Agency, which application requested that the Agency consider undertaking a project (the "Original Project") consisting of the following: (A) (1) the acquisition of an interest in an approximately 8.9 acre parcel of land located at 300 East Overlook, Port Washington, Town of North Hempstead, County of Nassau, New York (the "Land" or "Project Site"), (2) the construction of an approximately 600,000 square foot, six-story building on the Land (collectively, the "Building"), together with related improvements to the Project Site, and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the "Equipment"), all of the foregoing to constitute a continuing care retirement community for the benefit of eligible senior citizens, consisting of approximately 229 independent living units, 44 enriched housing units and 56 skilled nursing beds, together with associated common spaces and parking areas (collectively, the "Project Facility"); (B) the financing of all or a portion of the costs of the foregoing by the issuance of tax-exempt and/or taxable revenue bonds of the Agency in one or more series; (C) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes (but not including special

assessments and ad valorem levies) (together with the bonds, collectively, the “Original Financial Assistance”); and (D) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, pursuant to Resolution 2007-57 (attached hereto as Exhibit A) duly adopted by the members of the Agency on October 31, 2007, the Agency approved the Original Project and the granting of the Original Financial Assistance as more fully described therein (the “Prior Resolution”) (capitalized terms used but not defined herein are defined in the Prior Resolution); and

WHEREAS, pursuant to Resolution 2014-52 (attached hereto as Exhibit B) duly adopted by the members of the Agency on June 24, 2014, the Agency approved an amendment to the payment-in-lieu-of-taxes agreement dated as of December 1, 2007 between the Agency and the Applicant, with the requirement that the Applicant’s contemplated financial restructuring be accomplished on or before December 31, 2014; and

WHEREAS, the Prior Resolution contained approval of the issuance of certain revenue bonds of the Agency in connection with the Original Project (the “2007 Bonds”); and

WHEREAS, subsequent to the issuance of the 2007 Bonds, the Applicant defaulted on certain of its obligations in connection with the 2007 Bonds, and entered into negotiations with holders of a majority of principal amount of the 2007 Bonds to address the issues relating to said defaults; and

WHEREAS, on July 22, 2014, the Applicant filed its voluntary petition under Chapter 11 of the United States Bankruptcy Code in the bankruptcy case styled In re: Amsterdam House Continuing Care Retirement Community, Inc., Case No. 14-73348 (AST) (the “Bankruptcy Proceedings”) in the United States Bankruptcy Court, Eastern District of New York (the “Bankruptcy Court”); and

WHEREAS, on July 23, 2014, the Applicant filed its reorganization plan with the Bankruptcy Court which included the restructuring of the 2007 Bonds, which plan was amended and superseded by an amended plan filed on September 2, 2014 (as amended, the “Bankruptcy Plan”); and

WHEREAS, on October 22, 2014, the Bankruptcy Court is expected to issue its order (the “Order”) confirming the Bankruptcy Plan; and

WHEREAS, the Order and the Bankruptcy Plan provide that all of the payment obligations under the 2007 Bonds are to be restructured by having the owners of all of the 2007 Bonds exchange such 2007 Bonds for a ratable share of the Series 2014 Bonds (as defined below) (collectively, the “Bond Exchange”), with the payment obligations of the Applicant to be

restructured under an Installment Sale Agreement (the "Sale Agreement") as security for the Series 2014 Bonds; and

WHEREAS, in order to effectuate the Bond Exchange and the Bankruptcy Plan, the Applicant submitted an application to the Agency (the "Application") on or about July 23, 2014 requesting that the Agency consider undertaking a project (the "Project") consisting of the following: (A) the issuance of tax-exempt and/or taxable revenue bonds of the Agency in one or more series presently estimated to be in the aggregate principal amount of \$225,600,000 and in no event to exceed \$240,000,000 (the "Series 2014 Bonds") for the refinancing of all or a portion of the costs of acquisition and construction of the Project Facility; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing, in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (together with the issuance of the Series 2014 Bonds, collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the Executive Director of the Agency (A) caused notice of a public hearing of the Agency (the "Public Hearing") pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), and Sections 859-a and 859-b of the Act, to hear all persons interested in the Project and the Financial Assistance, to be mailed no later than August 29, 2014 to the chief executive officer of Nassau County, New York, and of each city, town, village, school district and other affected tax jurisdiction in which the Project Facility is located; (B) caused notice of the Public Hearing to be published on August 29, 2014, in Newsday, a newspaper of general circulation available to the residents of Nassau County, New York; (C) conducted the Public Hearing on September 15, 2014 at 10:00 a.m. local time at Town Hall, 220 Plandome Road, Manhasset, Town of North Hempstead, Nassau County, New York; and (D) prepared a report of the Public Hearing (the "Report") which fairly summarized the views presented at said public hearing and distributed same to the members of the Agency and to the County Executive of Nassau County, New York (the "County Executive"); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended, and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York ("SEQRA"), the appropriate personnel of the Agency reviewed the Application and other materials submitted by the Applicant (collectively, the "Project Environmental Documents"); and

WHEREAS, the Agency has given due consideration to the Application and to the representations made by the Applicant therein and in the Bankruptcy Plan and related Bankruptcy Court filings; and

WHEREAS, the Agency desires to encourage the Applicant to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of Nassau

County, New York, to improve their standard of living, and to prevent unemployment and economic deterioration, by maintaining the Project in Nassau County, New York; and

WHEREAS, in order to refinance a portion of the costs of the acquisition, construction, equipping and installation of the Project Facility pursuant to the Bond Exchange, the Agency is prepared to issue the Series 2014 Bonds, all pursuant to the Act and to secure the Series 2014 Bonds pursuant to an Indenture of Trust (the "Indenture") to be entered into between the Agency and a banking organization acting as trustee (the "Trustee"); and

WHEREAS, there may also be entered into in connection with the foregoing a Tax Compliance Agreement, a Guaranty Agreement, an Environmental Compliance and Indemnification Agreement, a Mortgage and certain other documents; and

WHEREAS, interest on any Series 2014 Bonds will not be excludable from gross income for federal income tax purposes unless, pursuant to Section 147(f) of the Code and the regulations of the United States Treasury Department thereunder (the "Treasury Regulations"), the issuance of the Series 2014 Bonds is approved by the County Executive (the "Public Approval"); and

WHEREAS, having complied with the notice requirements of Sections 859-a and 859-b of the Act and Section 147(f) of the Code and the requirements of SEQRA with respect to the Project, but subject to obtaining the Public Approval, the Agency now desires to make its determination to proceed with the refinancing of the Project and to grant the Financial Assistance, subject to the terms hereof; and

WHEREAS, in order to consummate the aforesaid financing, the Agency proposes to execute, issue and deliver the Series 2014 Bonds pursuant to the Bond Exchange and the Agency proposes to enter into: (A) the Indenture, (B) the Sale Agreement, (C) the Tax Compliance Agreement, (D) the Mortgage, and (E) certain other documents, instruments and agreements in connection therewith;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. The Agency has reviewed the Application and the Report and, based upon the representations made by the Applicant to the Agency, the Agency hereby determines that undertaking the Project will promote and is authorized by and will be in furtherance of the policy of the State of New York as set forth in the Act and hereby authorizes the Applicant to proceed with the Project. The Agency further determines that:

(a) The Project constitutes a "project" and the Project Facility constitutes a "continuing care retirement community" within the meaning of the Act; and



(b) The granting of the Financial Assistance will not result in the removal of a plant or facility of the Applicant or any other occupant or user of the Project Facility from one area of the State of New York to another area of the State of New York and will not result in the abandonment of one or more plants or facilities of the Applicant or any occupant or user of the Project Facility located in the State of New York; and

(c) No funds of the Agency will be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant, nor will any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State of New York, nor will any funds of the Agency be used for advertising or promotional materials which depict elected or appointed government officials in either print or electronic media; and

(d) The Project Facility is located entirely within the boundaries of the Town of North Hempstead, Nassau County, New York, and is not located within the boundaries of any incorporated village; and

(e) The refinancing of a portion of the costs of the Project Facility by the Agency and the installment sale thereof to the Applicant, is reasonably necessary to induce the Applicant to maintain the Project Facility and to maximize the Applicant's employment within Nassau County, New York.

Section 2. Pursuant to 6 NYCRR 617.11, the Agency considered the relevant environmental impacts, facts and conclusions disclosed in the Project Environmental Documents, weighed and balanced relevant environmental impacts with social, economic and other considerations and determined that the request for the Financial Assistance is a Type II Action pursuant to SEQRA involving "continuing agency administration" which does not involve "new programs or major reordering of priorities that may affect the environment" (6 NYCRR §617.5(c)(20)) and therefore no findings or determination of significance are required under Article 8 of the New York Environmental Conservation Law. The Agency hereby determines that the Agency has complied with the notice requirements of Sections 859-a and 859-b of the Act and Section 147(f) of the Code and the requirements of SEQRA that apply to the Project, subject to obtaining the Public Approval with respect to the Series 2014 Bonds.

Section 3. Having considered fully all comments received at or in connection with the Public Hearing, the Agency hereby determines to proceed with the Project and the granting of the Financial Assistance, subject to the terms hereof.

Section 4. The Agency hereby authorizes the Executive Director of the Agency to request that Nassau County, New York, acting through its County Executive, approve the issuance of the Series 2014 Bonds.

Section 5. The Project will be accomplished through the issuance of the Series 2014 Bonds of the Agency, which bonds will be special obligations of the Agency payable solely from the revenues and other amounts derived pursuant to the Sale Agreement.

Section 6. The Chairman, Vice Chairman, Executive Director, Administrative Director and other officers 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 Applicant to assist in the refinancing of a portion of the costs of the acquisition, construction, equipping and installation of the Project Facility.

Section 7. Subject to receipt by the Agency of the Public Approval with respect to the Series 2014 Bonds, to accomplish the purposes of the Act and to provide for the refinancing of a portion of the costs of the acquisition, construction, equipping and installation of the Project Facility, the issuance of the Series 2014 Bonds of the Agency is hereby authorized subject to the provisions of this Resolution and the Indenture hereinafter authorized.

The Series 2014 Bonds authorized to be issued, executed, sold and delivered hereunder shall be dated as provided in the Indenture, shall be issued in fully registered form (subject to the Book-Entry Only System of the Depository Trust Company), shall be payable as to principal and redemption premium, if any, at the principal office of the Trustee, shall be payable as to interest by check, draft or wire transfer as provided in the Indenture, shall be issued as one or more serial and/or term bonds and in the approximate aggregate original principal amount of \$225,600,000 but not to exceed \$240,000,000, having maturity dates and bearing interest from their date at interest rates to be set forth in the Series 2014 Bonds, which terms are specifically incorporated herein by reference with the same force and effect as if fully set forth in this Resolution, such interest to be payable as stipulated in the Indenture until the payment in full of the principal amount thereof and subject to such terms of redemption prior to the maturity thereof and to have such other terms and provisions and be issued in such manner and on such conditions, all as set forth in the Series 2014 Bonds and as set forth in the Indenture, and as finally determined by a certificate of determination by an Agency officer or by execution of the Indenture or Sale Agreement containing such determination.

The provisions for signatures, authentication, payment, delivery, redemption and number of the Series 2014 Bonds shall be as set forth in the Indenture.

Section 8. The Series 2014 Bonds shall be secured by the pledge effected by the Indenture and shall be payable solely from and secured by a pledge of the purchase price installments, revenues and receipts derived from or in connection with the Project Facility, to the extent set forth in the Indenture hereinafter authorized. The Series 2014 Bonds, together with the interest thereon, are special obligations of the Agency, payable solely as provided in the Indenture, including from moneys deposited in the funds and accounts established by the Indenture (subject to disbursements therefrom in accordance with the Indenture and the Sale Agreement), except the Rebate Fund, and shall never constitute a debt of the State of New York or of the County of Nassau, New York, and neither the State of New York nor the County of

Nassau, New York, shall be liable thereon, nor shall the Series 2014 Bonds be payable out of any funds of the Agency other than those pledged therefor. The payment of the principal of, redemption premium, if any, and interest on the Series 2014 Bonds will be secured by the Mortgage and guaranteed by the Applicant pursuant to a Guaranty Agreement, the form of which is hereby approved.

Section 9. The Agency hereby determines to, and the officers of the Agency and other appropriate officials of the Agency and its agents and employees are hereby authorized to: (A) cause the Applicant to proceed with the Project and to issue the Series 2014 Bonds, (B) acquire or retain an interest in the Project Facility, (C) sell the Project Facility to the Applicant pursuant to the terms of the Sale Agreement, (D) use the proceeds of the Series 2014 Bonds to refinance a portion of the costs of the Project Facility, (E) secure the Series 2014 Bonds by vesting certain powers and duties in the Trustee pursuant to the Indenture, and by assigning to the Trustee certain of the Agency's rights and remedies under the Sale Agreement, including the right to collect and receive purchase price installments payable thereunder (except for the Agency's Reserved Rights as defined in the Sale Agreement) pursuant to the Indenture, and (F) file the applicable Information Return for Private Activity Bond Issues, Form 8038 (the "Information Return") in the manner and at the places provided in the Code. All acts heretofore taken by the Agency with respect to the acquisition and sale of such interest in the Project Facility are hereby approved, ratified and confirmed.

Section 10. The execution and delivery of the Indenture, the Series 2014 Bonds, the Sale Agreement, the Tax Compliance Agreement and the Mortgage (the documents referenced in this Section 10, together with all other documents, instruments, and certificates contemplated thereby or appropriate to the contemplated transactions, being, collectively, the "Agency Documents") are hereby authorized. The Chairman, Vice Chairman, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary, Executive Director and Administrative Director of the Agency are each hereby authorized, acting individually or jointly, to execute, acknowledge and deliver each such agreement, and the Executive Director, the Administrative Director, the Secretary and the Assistant Secretary are each hereby authorized, acting individually or jointly, to affix the seal of the Agency on each such agreement, as applicable, and attest the same. The execution and delivery of each such agreement by any one said officer shall be conclusive evidence of due authorization and approval.

Section 11. The Agency hereby approves of the forms of the following documents, not for execution by the Agency but entered into in connection with the transactions created by the Agency Documents: the Guaranty Agreement and the Environmental Compliance and Indemnification Agreement.

Section 12. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution and contained in the Agency Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding



upon the Agency and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Agency or the members thereof by the provisions of this Resolution and the Agency Documents shall be exercised or performed by the Agency or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in any of the Agency Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity, and neither the members of the Agency nor any officer executing the Series 2014 Bonds shall be liable personally on the Series 2014 Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 13. The Chairman, Vice Chairman, Executive Director, Administrative Director and the other officers of the Agency are hereby designated an authorized representative of the Agency, and each of them is hereby authorized and directed, acting individually or jointly, to execute and deliver 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 Agency Documents and the issuance of the Series 2014 Bonds.

Section 14. Any expenses incurred by the Agency with respect to the refinancing of the Project Facility, including, without limitation, the fees and expenses of the Agency and Bond Counsel and bond issuance and other fees imposed by the State of New York may be reimbursed out of the proceeds of the Series 2014 Bonds subject to the requirements of the Code. In the event such proceeds are insufficient after payment of other costs of the Project or bonds are not issued by the Agency for any reason, such expenses shall be paid by the Applicant. By accepting this Resolution, the Applicant agrees to pay such expenses and further agrees to indemnify the Agency, its members, 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 refinancing thereof.

Section 15. The findings of the Agency set forth herein are intended to be a statement of the Agency's "official intent" as required by, and in conformance with, the provisions of Treasury Regulation Section 1.150-2(e). This Bond Resolution is subject to further compliance with the provisions of Sections 141 through 150 and related provisions of the Code, including, without limitation, obtaining of the Public Approval.

Section 16. The Agency recognizes that due to the unusual complexities of the Project it may become necessary that certain of the terms approved hereby may require modifications which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman, Vice Chairman, Executive Director,

Administrative Director, Treasurer, Assistant Treasurer, Secretary or Assistant Secretary of the Agency to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution. The approval of such modifications shall be evidenced by the certificate of determination of an Agency officer or the execution and delivery by any one (1) of such Agency officers of relevant documents containing such modified terms.

Section 17. The officers of the Agency are each hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such further acts as may be necessary or convenient to implement the provisions and intent of this Resolution.

Section 18. This Resolution shall take effect immediately and shall expire ninety (90) days after the date of its adoption.

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

Timothy Williams	VOTING	Aye
John Coumatos	VOTING	Aye
Gary Weiss	VOTING	Aye
Christopher Fusco	ABSENT	
Michael Rodin	VOTING	Aye

The foregoing Resolution was thereupon declared duly adopted.


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

I, the undersigned [~~Assistant~~] Secretary of the Nassau County Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on October 15, 2014 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 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 Agency 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 Agency 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 Agency this 15<sup>th</sup> day of October, 2014.

  
\_\_\_\_\_  
[Asst.] Secretary

(SEAL)