

PROJECT AGREEMENT

THIS PROJECT AGREEMENT (the "Project Agreement"), made as of November 1, 2017 by and between the TOWN OF COLONIE INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, with offices at the Town of Colonie Public Operations Center, 347 Old Niskayuna Road, Latham, New York 12110 (the "Agency"), and ONE MUSTANG DRIVE II, LLC, a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, having an office at 1 Mustang Drive, Cohoes, New York 12047 (the "Company").

WITNESSETH:

WHEREAS, Title I of Article 18-A of the General Municipal Law of the State of New York (the "Enabling Act") was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York; and

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the "State") and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any building or other improvement, and all real and personal properties, including, but not limited to machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter 594 of the Laws of 1980 of the State, as amended (collectively, with the Enabling Act, the "Act") and is empowered under the Act to undertake the Project (as hereinafter defined) in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, the Company submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of the refunding of the Issuer's \$5,880,000 Multi-Modal Tax-Exempt Revenue Bond (One Mustang Drive II, LLC Project), Series 2010A (the "Series 2010A Bonds"); and

WHEREAS, the Series 2010A Bonds were issued to finance portion of a project (the "2010 Project") consisting of the following: (A) the acquisition of two adjacent parcels of land totaling approximately 11 acres located at 1 Mustang Drive, in the Town of Colonie, Albany County, New York (the "Land") and the existing 115,000 square foot facility located thereon (the "Existing Facility"), (B) the rehabilitation and renovation of the Existing Facility (the "Facility") for use as a manufacturing facility and office space, and (C) the acquisition and

installation therein and thereon of various machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"); and

WHEREAS, by resolution of its members adopted on October 16, 2017 (the "Resolution"), the Agency has conferred on the Company in connection with the Project certain financial assistance consisting of: (a) the issuance of tax-exempt refunding revenue bonds of the Agency (the "Bond") in an aggregate principal amount sufficient to finance the refunding of the Series 2010A Bonds in an amount estimated to be \$5,185,000; and (b) an exemption from mortgage recording tax (except as limited by Section 874 of the Act) (the exemption from mortgage recording tax hereinafter referred to as the "Financial Assistance"); and

WHEREAS, it has been estimated and confirmed by the Company that the Company has included within its Application for Financial Assistance a mortgage recording tax exemption for a mortgage in the amount of approximately \$5,185,000; and

WHEREAS, the Company proposes to lease the Land and Facility to the Agency, and the Agency desires to lease the Land and Facility from the Company pursuant to the terms of a certain Underlying Lease dated as of November 1, 2017 (the "Underlying Lease"), by and between the Company and the Agency; and

WHEREAS, the Agency proposes to acquire an interest in the Equipment pursuant to a bill of sale from the Company; and

WHEREAS, the Agency proposes to sell the Project Facility to the Company, and the Company desires to purchase the Project Facility from the Agency, upon the terms and conditions set forth in a certain Installment Sale Agreement dated as of November 1, 2017 (the "Sale Agreement"); and

WHEREAS, the Agency requires, as a condition and as an inducement for it to enter into the transactions contemplated by the Resolution and as more particularly described in this Project Agreement, that the Company provide assurances with respect to the terms and conditions herein set forth; and

WHEREAS, this Project Agreement sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; and

WHEREAS, no Financial Assistance shall be provided to the Company prior to the effective date of this Project Agreement;

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

ARTICLE I PURPOSE OF PROJECT

Section 1.01 Purpose of Project. It is understood and agreed by the parties hereto that the purpose of the Agency's provision of Financial Assistance with respect to the Project is to, and that the Agency is entering into the Underlying Lease, Sale Agreement and this Project Agreement in order to, promote, develop, encourage and assist in the refinancing of the Project Facility to advance job opportunities, health, general prosperity and economic welfare of the people of the Town of Colonie and to otherwise accomplish the public purpose of the Act.

ARTICLE II REAL PROPERTY TAX EXEMPTION

[Intentionally omitted.]

ARTICLE III SALES AND USE TAX EXEMPTION

[Intentionally omitted.]

ARTICLE IV COMMITMENTS AND REPORTING

Section 4.01. Compliance Commitments. The Company agrees and covenants that it shall meet and maintain the following commitments beginning in the first year in which Financial Assistance is so claimed, and continuing through the term of the Sale Agreement:

(a) At least one hundred seventy-five (175) full time equivalent ("FTE") employees were located at the Project Facility at the date of the Application for Financial Assistance (the "Baseline FTE") and that the Company shall maintain FTE employment at the Project Facility equal to one hundred fifty-eight (158) FTE employees (representing the product of one hundred seventy-five (175) Baseline FTE and 90%); and

(b) The Company shall annually provide to the Agency certain information to confirm that the Project is achieving the investment, job retention, job creation, and other objectives of the Project (the "Reporting Commitment").

Section 4.02. Reporting Requirement. As part of the commitments set forth in Section 4.01, the Company shall provide annually, to the Agency, a certified statement and supporting documentation: (i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the Financial Assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the Project location, and (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application for Financial Assistance is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. Exhibit A contains a form of annual certification that the Company must complete and submit to the Agency on an annual basis. The Agency reserves the right to modify such form to require

additional information that the Agency must have in order to comply with its reporting requirements under the Act.

ARTICLE V
SUSPENSION, DISCONTINUATION, RECAPTURE AND/OR TERMINATION OF
FINANCIAL ASSISTANCE

Section 5.01. Suspension, Discontinuation, Recapture and/or Termination of Financial Assistance. It is understood and agreed by the Parties hereto that the Agency is entering into the Underlying Lease, the Sale Agreement and this Project Agreement in order to provide Financial Assistance to the Company for the Project Facility and to accomplish the public purposes of the Act.

(a) [Intentionally omitted.]

(b) In accordance with the policies of the Agency and the Resolution, the Company covenants and agrees that the Agency shall have the right to suspend, discontinue, recapture or terminate all or any portion of any Financial Assistance in the event that:

(1) [Intentionally omitted];

(2) the Company fails to maintain its Employment Commitment ("Job Deficit");

(3) the Company fails to meet its Reporting Commitment ("Reporting Failure"); or

(4) there otherwise occurs any event of default under any Project Document (each, an "Event of Default") or a material violation of the terms and conditions of any Project Document (a "Material Violation").

The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency's attention, whether a Job Deficit, Reporting Failure, Event of Default or Material Violation (each a "Noncompliance Event") has occurred. Notwithstanding the foregoing, the Agency may determine whether an Event of Default has occurred pursuant to any Project Document in accordance with the terms of the Project Document.

At the time of any Noncompliance Event, the Agency shall determine by resolution whether to exercise its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance, and shall consider the following criteria in determining whether to proceed to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance:

- Whether the Company has proceeded in good faith.

- Whether the Project has not performed as required due to economic issues, changes in market conditions or adverse events beyond the control of the Company.
- Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance would create a more adverse situation for the Company, such as the Company going out of business or declaring bankruptcy, which would not occur if the Agency's rights were not exercised.
- Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance would create an adverse situation for the residents of the Town of Colonie.
- The assessment prepared in accordance with the Agency's Annual Assessment Policy.
- Such other criteria as the Agency shall determine is a relevant factor in connection with any decision regarding the exercise of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance.

The Agency shall document its evaluation of the above criteria in writing and based upon its evaluation, the Agency shall determine whether to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance (the "Determination"). The Determination shall provide terms, if any, by which the Company may remedy any Noncompliance Event upon which the Determination was based. The Company must submit written documentation to the Agency of compliance with all terms and conditions of the Determination in order for the Agency to consider whether to resume Financial Assistance to the Company (which will be at the Agency's sole discretion).

(c) If the Agency makes a Determination, the Company agrees and covenants that it will: (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company; and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdictions, unless agreed to otherwise by any local taxing jurisdiction.

(d) If the Sale Agreement for the Project is voluntarily terminated by the Company prior to November 17, 2022, the Agency reserves the right to require the Company to pay back all or some portion of the Financial Assistance in accordance with this Article V.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.01. Survival. All warranties, representations, and covenants made by the Company herein shall be deemed to have been relied upon by the Agency and shall survive the delivery of this Project Agreement to the Agency regardless of any investigation made by the Agency.

Section 6.02. Notices. All notices, certificates and other communications under this Project Agreement shall be in writing and shall be deemed given when delivered personally or when sent by certified mail, postage prepaid, return receipt requested, or by overnight delivery service, addressed as follows:

If to the Agency: Town of Colonie Industrial Development Agency
Town of Colonie Public Operations Center
347 Old Niskayuna Road
Latham, New York 12110

With a copy to: Barclay Damon LLP
80 State Street
Albany, New York 12207
Attention: M. Cornelia Cahill, Esq.

If to the Company: One Mustang Drive II, LLC
1 Mustang Drive
Cohoes, New York 12047
Attention: Antonio Giordano
Telephone: (518) 371-2684
Facsimile: (518) 371-2688

Whiteman, Osterman & Hanna
1 Commerce Plaza
Albany, New York 12260
Attention: Charles Haviland, Esq.
Telephone: (518) 487-7655
Facsimile: (518) 487-7777

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when received or delivery of same is refused by the recipient or personally delivered in the manner provided in this Section.

Section 6.03. Amendments. No amendment, change, modification, alteration or termination of this Project Agreement shall be made except in writing upon the written consent of the Company and the Agency.

Section 6.04. Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Project Agreement or the application thereof shall not affect

the validity or enforceability of the remaining portions of this Project Agreement or any part thereof.

Section 6.05. Counterparts. This Project Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

Section 6.06. Governing Law. This Project Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Albany County, New York.

Section 6.07. Term. Except as specifically provided otherwise, the term of this Project Agreement shall be five years from the date hereof. Notwithstanding the termination of this Project Agreement, the Project will remain “active” for purposes of Section 874(12) of General Municipal Law and the Agency’s Annual Assessment Policy until the end of the calendar year in which the Bond is no longer outstanding.

Section 6.08. Section Headings. The headings of the several Sections in this Project Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Project Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Project Agreement as of the day and year first above written.

TOWN OF COLONIE INDUSTRIAL
DEVELOPMENT AGENCY

By: _____

Name: John Kearney

Title: Chairman

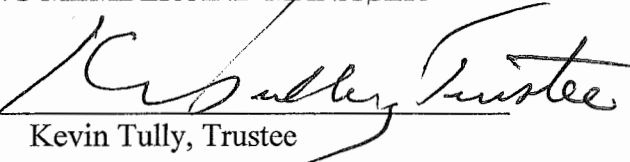
SIGNATURE PAGE TO PROJECT AGREEMENT
PAGE 1 OF 2

ONE MUSTANG DRIVE II, LLC, a Delaware
limited liability company

By: ANTHONY J. HYNES IRREVOCABLE
TRUST NO. 2 DATED AUGUST 16, 2010,
VOTING MEMBER AND MANAGER

By: 
Kevin Tully, Trustee

By: ANTHONY J. HYNES IRREVOCABLE
TRUST NO. 3 DATED AUGUST 16, 2010,
VOTING MEMBER AND MANAGER

By: 
Kevin Tully, Trustee

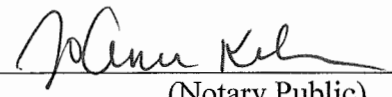
STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:

Kevin Tully, being first duly sworn, deposes and says:

1. That I am the Trustee of the Anthony J. Hynes Irrevocable Trust No. 2 Dated August 16, 2010 and the Anthony J. Hines Irrevocable Trust No. 3 Dated August 16, 2010, both voting members and manager of One Mustang Drive II, LLC and that I am duly authorized on behalf of the Company to bind the Company and to execute this Project Agreement.
2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.


Kevin Tully

Subscribed and affirmed to me
under penalties of perjury
this 13th day of November, 2017


(Notary Public)

JO-ANN KILMER
Notary Public, State of New York
No. 01K15052388
Qualified in Saratoga County
Commission Expires Nov. 20, 2021

SIGNATURE PAGE TO PROJECT AGREEMENT

PAGE 2 OF 2

EXHIBIT A

FORM OF ANNUAL REPORTING QUESTIONNAIRE

Dated: _____

Please complete the below information in connection with the financial assistance your project is receiving from the Town of Colonie Industrial Development Agency and return to the address below no later than 30 days from the date hereof. Failure to accurately and timely provide the requested information could subject your project to suspension or forfeiture of benefits previously received or currently receiving, pursuant to the Agency's Recapture Policy.

Name of company: _____

Name of project: _____

Address of project: _____

SALES TAX EXEMPTION BENEFITS:

Did your company receive sales tax exemption benefits on your project during 20__?
(Circle one) YES NO

If yes, enter the amount of sales tax exemption claimed in 20__: \$_____
(Attach a copy of Form ST-340 submitted to the Department of Taxation and Finance)

JOB CREATION/RETENTION:

Current number of FTEs (as of 12/31/____): _____

Total jobs created in 20__: _____

Total jobs retained from prior year: _____

(Full-time equivalent or FTE = >30 hours/week)

(Attach copies of Form NYS-45 for all four quarters of 20__)

(If Form NYS-45 does not accurately reflect the FTE at the project location, also include an internal report verifying the job information)

Include Full time equivalent independent contractors/employees of independent contractors

Number of residents of the Agency's defined Labor Market Area employed at the Project: _____

Number of residents of the Town of Colonie ("Town") employed at the Project: _____

Number of FTE construction jobs during 20__: _____

For salary and benefit information, indicate whether the numbers provided in the application remain accurate; if not, provide new numbers.

JOBS CREATED:

Professional/Managerial/Technical Jobs _____
Number of Town residents in such Jobs _____
Average Salary or Salary Range _____
Average Benefits or Benefits Range _____

Skilled Jobs _____
Number of Town residents in such Jobs _____
Average Salary or Salary Range _____
Average Benefits or Benefits Range _____

Semi-skilled or Unskilled Jobs _____
Number of Town residents in such Jobs _____
Average Salary or Salary Range _____
Average Benefits or Benefits Range _____

JOBS RETAINED:

Professional/Managerial/Technical Jobs _____
Average Salary or Salary Range _____
Average Benefits or Benefits Range _____

Skilled Jobs _____
Average Salary or Salary Range _____
Average Benefits or Benefits Range _____

Semi-skilled or Unskilled Jobs _____
Average Salary or Salary Range _____
Average Benefits or Benefits Range _____

CAPITAL INVESTMENT:

Complete the amounts of the capital investment categories listed below as of December 31, 20__:

Purchase of land \$ _____
Purchase of existing buildings \$ _____
Renovations/additions to existing buildings \$ _____
New building construction \$ _____
Machinery and equipment costs \$ _____
Utilities, roads and appurtenant costs \$ _____

Date: _____

I hereby certify to the Town of Colonie Industrial Development Agency that the information provided above is true and accurate. I understand that failure to report completely and accurately may be subject to penalty of perjury and result in enforcement of provisions of the Company Documents executed in connection with the above project, including but not limited to event of default under the Company Documents and suspension or forfeiture of benefits previously received or currently receiving, pursuant to our Recapture Policy.

Name: _____

Title: _____

Return to:
Joseph LaCivita, Executive Director
Town of Colonie Industrial Development Agency
Town of Colonie Public Operations Center
347 Old Niskayuna Road
Latham, New York 12110