

RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY CONSENTING TO AN ASSIGNMENT OF MORTGAGE; A GAP MORTGAGE; A MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, FINANCING STATEMENT AND FIXTURE FILING (BUILDING LOAN); AN ASSIGNMENT OF LEASES AND RENTS; AND A CONSOLIDATED, EXTENSION, SPREADER AND MODIFICATION AGREEMENT AND OTHER RELATED DOCUMENTS IN CONNECTION WITH IN THE REFINANCING OF THE 2019 THE OAKS AT SOUTH PARK LLC PROJECT

WHEREAS, to accomplish the purposes of the Act, the Agency induced The Oaks at South Park LLC ("the Lessee"), with respect to the acquisition and equipping by the Agency with the proceeds of a lease with mortgage for the acquisition by the Lessee of an approximately 27 acre parcel of land located at 5138 South Park Avenue in the Town of Hamburg, the construction by the Lessee, as agent for the Agency (i) the adaptive re-use of a former school building and re-development the parcel of land for construction of 19 two-story buildings totaling 152 housing units and (ii) installation of baseball and softball fields and other amenities and the acquisition and installation of machinery, equipment, furnishings and fixtures by the Lessee, as agent for the Agency, all for a residential housing complex with additional services (the "Project"), and in furtherance of said purpose the Agency adopted its Inducement Resolution on June 25, 2019; and

WHEREAS, pursuant to such Inducement Resolution, the Agency acquired a leasehold interest in the Facility pursuant to a certain Lease to Agency, dated as of November 1, 2019, between The Oaks at South Park LLC as lessor, and the Agency, as lessee, (the "Lease to Agency") and leased the Facility back to The Oaks at South Park LLC pursuant to a certain Leaseback Agreement, dated as of November 1, 2019, between the Agency, as lessor, and The Oaks at South Park LLC, as lessee, (the "Leaseback Agreement");

WHEREAS, the Agency has now received a request for the Agency's consent in regard to the Lessee's refinancing of the Project;

WHEREAS, The Lessee, is not requesting an additional benefits from the Agency and is only seeking the consent of the Agency of its proposed refinance; and

WHEREAS, the facility will remain a residential housing complex with additional services; accordingly, there will be no change in the Payment in Lieu of Taxes ("PILOT") Provisions attached as Exhibit C to the Leaseback Agreement.

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

Section 1. The Agency hereby consents to the Assignment of Mortgage from S&T Bank to DPI-Acres Capital LLC; and the execution and delivery of A Gap Mortgage not to exceed \$29,425.00; A Mortgage, Assignment Of Leases And Rents, Security Agreement, Financing Statement And Fixture Filing (Building Loan) in an amount not to exceed \$26,401,226.00; An

Assignment Of Leases And Rents; And A Consolidated, Extension, Spreader And Modification Agreement In An Amount Not To Exceed \$29,425,000 And Other Related Documents between 2019 The Oaks at South Park LLC Project and DPI-Acres Realty Funding, Inc. ("Refinance Documents"), with respect to the Lease to Agency and the Leaseback Agreement, as amended.

Section 2. The execution and delivery of the Refinance Documents in the form approved by the Chairman, Vice Chairman, Executive Director Secretary or Assistant Secretary is hereby authorized. The appropriate officers of the Agency are hereby authorized to execute, seal, acknowledge and deliver such Certificate. The execution and delivery of the Refinance Documents shall be conclusive evidence of due authorization and approval.

Section 3. The Agency determines that the PILOT provisions shall remain unchanged as there is no change in use or in the occupancy of the Facility.

Section 4. The Oaks at South Park LLC, agrees that it will pay all Agency Administrative Fees and legal fees due at closing.

Section 5. This resolution shall take effect immediately.

Adopted: November 9, 2022

Accepted:

THE OAKS AT SOUTH PARK LLC

By



Anthony J. Cutaia, Manager