

## **Amsterdam House Continuing Care Retirement Community, Inc. – Consent Resolution**

A regular meeting of the Nassau County Industrial Development Agency (the “Agency”) was convened in public session at the Theodore Roosevelt Executive & Legislative Building, Legislative Chambers, 1<sup>st</sup> Floor, 1550 Franklin Avenue, Mineola, Nassau County, New York on June 27, 2024 at 6:45 p.m., local time.

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

### **PRESENT:**

William H. Rockensies	Chair
John Coumatos	Asst. Treasurer
Marco Troiano	Member
Joseph Manzella	Member
Marissa Brown	Member

### **THE FOLLOWING PERSONS WERE ALSO PRESENT:**

Sheldon L. Shrenkel	Chief Executive Officer/Executive Director
Anne LaMorte	Chief Financial Officer
Colleen Pereira	Administrative Director
Carlene Wynter	Compliance Assistant
Nicole Gil	Administrative Assistant
Ben Ciorra	Director of Operations
Judge Anthony Marano (Ret.)	Agency Counsel
Andrew D. Komaromi, Esq.	Bond/Transactional Counsel

### **EXCUSED:**

Raymond Pinto	Secretary
Reginald A. Spinello	Member

The attached resolution No. 2024-31 was offered by Marissa Brown, seconded by Marco Troiano.

RESOLUTION OF THE NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "ISSUER" OR THE "AGENCY") AUTHORIZING CERTAIN MATTERS IN CONNECTION WITH ITS CONTINUING CARE RETIREMENT COMMUNITY FIXED RATE REVENUE BONDS (AMSTERDAM AT HARBORSIDE PROJECT) SERIES 2021 (THE "BONDS" OR THE "SERIES 2021 BONDS")

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, retail space and amenities and related infrastructure such as roads, sewers, utilities, parking lots, drainage areas, ponds and maintenance facilities (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 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 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 “2014 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 “2014 Bankruptcy Plan”); and

WHEREAS, On October 23, 2014, the Bankruptcy Court issued its order (the “2014 Order”) confirming the 2014 Bankruptcy Plan; and

WHEREAS, the 2014 Order and the 2014 Bankruptcy Plan provided that all of the payment obligations under the 2007 Bonds were 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 “2014 Bond Exchange”), with the payment obligations of the Applicant to be restructured under an Installment Sale Agreement (the “2014 Installment Sale Agreement”) as security for the Series 2014 Bonds; and

WHEREAS, in order to effectuate the 2014 Bond Exchange and the 2014 Bankruptcy Plan, the Applicant requested that the Agency issue: (a) \$141,585,000 in aggregate principal

amount of its Continuing Care Retirement Community Fixed Rate Revenue Bonds (Amsterdam at Harborside Project) Series 2014A (the “Series 2014A Bonds”), (b) \$23,842,500 in aggregate principal amount of its Continuing Care Retirement Community Fixed Rate Revenue Bonds (Amsterdam at Harborside Project) Series 2014B (the “Series 2014B Bonds” and together with the Series 2014A Bonds, the “Senior Bonds”) and (c) \$59,537,660 in aggregate principal amount of its Continuing Care Retirement Community Excess Cash Flow Revenue Bonds (Amsterdam at Harborside Project) Series 2014C (the “Series 2014C Bonds” and, together with the Series 2014A Bonds and the Series 2014B Bonds, the “Series 2014 Bonds”), and exchange the Series 2014 Bonds for the outstanding Series 2007 Bonds, with (A) each holder of Series 2007A Bonds to receive their share of (i) Series 2014A Bonds in an aggregate principal amount equal to \$123,288,750 and (ii) Series 2014C Bonds in an aggregate original principal amount equal to \$44,453,584 in the percentages set forth herein, (B) each holder of Series 2007B Bonds to receive their pro rata share of (i) Series 2014A Bonds in an aggregate principal amount equal to \$6,375,000 and (ii) Series 2014C Bonds in an aggregate original principal amount equal to \$2,295,355 and (C) with each holder of Series 2007C Bonds to receive their pro rata share of (i) Series 2014A Bonds in an aggregate principal amount of \$11,921,250, (ii) Series 2014B Bonds in an aggregate original principal amount equal to \$23,842,500, and (iii) Series 2014C Bonds in an aggregate original principal amount equal to \$12,788,721; and

WHEREAS, in order to effectuate the 2014 Bond Exchange and the 2014 Bankruptcy Plan and pursuant to the 2014 Bankruptcy Plan, the Agency and the Applicant entered into an Indenture of Trust dated as of November 1, 2014 and contemporaneously with the execution thereof, (i) the Applicant entered into the 2014 Installment Sale Agreement, (ii) the Applicant entered into a guaranty agreement with the Trustee whereunder the Applicant guaranteed the payment of the principal, Sinking Fund Installments or Redemption Price of or interest on the Series 2014 Bonds, (iii) the Agency and the Applicant granted a mortgage lien on and security interest in the Facility to the Trustee, and (iv) the Applicant granted a security interest in certain assets of the Applicant and assigned its interest in certain contracts to the Trustee and the Agency, and the Agency issued and delivered the Series 2014 Bonds on November 13, 2014; and

WHEREAS, the proceeds of the Bonds were loaned by the Agency to the Applicant pursuant to the Sale Agreement; and

WHEREAS, Events of Default occurred and continued under the 2014 Installment Sale Agreement as a result of the Applicant's failure to maintain a Debt Service Coverage Ratio of at least 1.0x for the Fiscal Year ended December 31, 2018 (Section 8.5(b) of the Installment Sale Agreement) and the failure to meet the Liquidity Covenant as of December 31, 2018 and June 30, 2019 (Section 8.5(c) of the 2014 Installment Sale Agreement)(the “Existing Defaults”). The Applicant was also expected to be unable to meet the Liquidity Covenant for December 31, 2019 and June 30, 2020 (the “2020 Anticipated Defaults”); and

WHEREAS, the majority of the holders of the 2014 Bonds (the “Majority of Holders”) agreed to direct the Trustee to waive the Existing Default and amend the Bonds Documents with respect to the 2020 Anticipated Defaults, provided certain additional amendments were made to the Bond Documents; and

WHEREAS, pursuant to a notification and consent request letter, dated October 11, 2019, the Applicant requested that the Agency approve an amendment to the 2014 Installment Sale Agreement to lower the Liquidity Covenant for December 31, 2019 and June 30, 2020 to 45 Days' Cash on Hand (Section 8.5(c)(A)); confirm the Applicant's obligation to deliver to the Trustee of one-twelfth (1/12) of the principal on the Series 2014B Bonds coming due on July 1, 2020 (Section 5.3(a)(ii)); clarify the scope of Phase II of the Project and confirm that a financing or refinancing is permitted, subject to the satisfaction of the stated conditions in Section 8.14 and to the provisions of Section 8.23 discussed below; add a new section that restricts the Applicant from incurring additional indebtedness or undertaking any other material transaction outside the ordinary course of business until the Series 2014B Bonds are paid in full, without the written consent of the Majority of Holders (Section 8.23) (collectively, the "2019 Proposed Amendment"); and the Issuer approve an amendment to the Indenture of Trust to permit the redemption of the Bonds on a quarterly basis with funds delivered to the Trustee pursuant to Section 5.3(a)(ii) of the 2014 Installment Sale Agreement (the monthly 1/12 payments described above), in the manner that available Entrance Fees are used to redeem Bonds pursuant to Sections 2.03(b)(1) and 5.12 of the Indenture of Trust (the "2019 Consent Request"); and

WHEREAS, the Agency granted the 2019 Consent Request and agreed to and entered into the 2019 Proposed Amendment; and

WHEREAS, subsequent to the issuance of the 2014 Bonds, the Applicant defaulted on certain of its obligations in connection with the 2014 Bonds, and entered into negotiations with the Majority Holders to address the issues relating to said defaults; and

WHEREAS, on June 14, 2021, 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. 21-71095 (AST) (the "Bankruptcy Proceedings") in the United States Bankruptcy Court, Eastern District of New York (the "Bankruptcy Court"); and

WHEREAS, on June 14, 2021, the Applicant filed its reorganization plan with the Bankruptcy Court which included the restructuring of the Series 2014A Bonds and Series 2014B Bonds, cancellation of the Series 2014C Bonds and issuance of the Series 2021 Bonds (the "Bankruptcy Plan"); and

WHEREAS, the Bankruptcy Court an order (the "Order") confirming the Bankruptcy Plan; and

WHEREAS, the Order and the Bankruptcy Plan provide that all of the payment obligations under the Series 2014A Bonds and Series 2014B Bonds were to be restructured by having the owners of all of the Series 2014A Bonds and Series 2014B Bonds exchange such 2014 Bonds for a ratable share of the Series 2021B Bonds (as defined below) (collectively, the "Bond Exchange"), with the payment obligations of the Applicant to be restructured under an Installment Sale Agreement to be entered into by and between the Issuer and the Applicant (the "Sale Agreement") as security for the Series 2021B Bonds while the Series 2014C Bonds will be cancelled in whole without any payment or consideration and a new series of bonds, the Series 2021A Bonds (as defined below) will be issued for the purpose of funding certain resident refund obligations, working capital for the Project and a debt service reserve fund, and purchased by

certain of the holders of the Series 2014 Bonds and will be secured by a first priority lien on all assets of the Applicant, except funds under a certain Liquidity Support Agreement, and subject to the payment priority of the Series 2021A Bonds and subject to that certain PILOT Mortgage in favor of the County of Nassau with respect to the Project Facility; 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 June 21, 2021 requesting that the Agency consider undertaking a project (the "Project") consisting of the following: (A) the issuance of (a) presently estimated \$40,710,000 and in no event to exceed \$41,000,000 in aggregate principal amount of its Continuing Care Retirement Community Taxable Revenue Bonds, Series 2021A (Amsterdam at Harborside Project) (the "Series 2021A Bonds") for the purpose of refunding certain resident refund obligations, financing working capital and reserves, (b) presently estimated \$127,327,200 and in no event to exceed \$128,000,000 in aggregate principal amount of its Continuing Care Retirement Community Tax-Exempt Refunding Revenue Bonds, Series 2021B (Amsterdam at Harborside Project) (the "Series 2021B Bonds" and together with the Series 2021A Bonds, the "Bonds") and exchange the Series 2021B Bonds for the outstanding Series 2014A Bonds and Series 2014B Bonds (which currently total \$139,917,130 in principal amount), with (x) each holder of Series 2014A Bonds to receive their pro-rata share of Series 2021B Bonds, and (y) each holder of Series 2014B Bonds to receive their pro rata share of Series 2021B Bonds and (z) the Series 2014C Bonds to be tendered and cancelled without payment; (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 (heretofore approved and granted), mortgage recording taxes; and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant; and

WHEREAS, in order to effectuate the Bond Exchange and the Bankruptcy Plan and pursuant to the Bankruptcy Plan, the Agency and UMB BANK, N.A., national banking association, having its principal corporate trust office at Sixth Street South, Suite 1400, Minneapolis, MN 55402, as trustee (the "2021 Trustee") entered into an Indenture of Trust dated as of September 1, 2021, hereinafter referred to and contemporaneously with the execution thereof, (i) the Applicant entered into the Sale Agreement, (ii) the Applicant entered a guaranty agreement with the Trustee whereunder the Applicant guaranteed the payment of the principal, Sinking Fund Installments or Redemption Price of or interest on the Series 2021 Bonds, (iii) the Agency and the Applicant granted a mortgage lien on and security interest in the Facility to the Trustee, (iv) the Applicant granted a security interest in certain assets of the Applicant and assigned its interest in certain contracts to the Trustee and the Agency. The Series 2021B Bonds were subordinate in payment and security to the Series 2021A Bonds; (v) the Applicant executed and delivered a, Project Agreement between the Agency and the Applicant, pursuant to which the Agency appointed and reappointed the Applicant as its agent and provided mortgage recording tax exemption ("Project Agreement"); and the Agency issued the Series 2021 Bonds; and

WHEREAS, the proceeds of the Bonds were loaned by the Agency to the Applicant pursuant to the Sale Agreement; and

WHEREAS, Events of Default occurred under the Installment Sale Agreement as a result of the Applicant's failure to maintain a Debt Service Coverage Ratio of at least 1.0x as of

September 30, 2022, (Section 8.5(b) of the Installment Sale Agreement) and the failure to meet the Liquidity Covenant as of June 30, 2022 (Section 8.5(c) of the Installment Sale Agreement) (the "Anticipated Defaults"); and

WHEREAS, the majority of the holders of the Bonds (the "Majority of Holders") agreed to direct the Trustee to waive the Existing Defaults and amend the Bonds Documents with respect to the Anticipated Defaults, provided certain additional amendments were made to the Bond Documents; and

WHEREAS, pursuant to a notification and consent request letter, dated June 20, 2022, the Applicant requested that the Agency approve, execute and deliver an amendment to the Installment Sale Agreement to accomplish the following amendments thereto:

A. Amendment to Section 8.5(b) of the Original Installment Sale Agreement; Debt Service Coverage Ratio. Section 8.5(b) of the Original Installment Sale Agreement is hereby amended by:

(a) replacing the date "September 30, 2022" on the third line of Section 8.5(b) thereof with the date "December 31, 2022"; and

(b) deleting from the sixth and seventh line of Section 8.5(b)(i) the clause reading "; provided however that for the September 30, 2022 Testing Date, the test shall be calculated based on a rolling 9 months".

B. Amendment to Section 8.5(c) of the Original Installment Sale Agreement; Liquidity Covenant. Section 8.5(c) of the Original Installment Sale Agreement is hereby amended by:

(a) deleting from the second line of Section 8.5(c) the words "each of June 30, 2022 and"; and

(b) restating the last sentence of Section 8.5(c)(i) to read: "The term 'Liquidity Testing Date' shall mean each June 30 and December 31, commencing December 31, 2022."; and

(c) restating 8.5(c)(ii)(C)(ii) as follows: "if at any time, commencing December 31, 2022 the Corporation does not maintain liquid assets in the amounts as set forth in the MLR Requirement".

C. Amendment to Section 8.9 of the Original Installment Sale Agreement; Books of Record and Accounting; Reporting. The first sentence of the second paragraph of Section 8.9 of the Original Installment Sale Agreement is hereby amended and restated to read as follows: "The Corporation agrees to hold a conference call each month until Stabilization and then quarterly thereafter to review the progress of marketing and occupancy of the Project and the Corporation's financial performance. The call shall take place during the week following the delivery each month (or each quarter after Stabilization) in accordance with Section 8.9(a) of the unaudited financial statements."

D. Adding the following requirement to the Original Installment Sale Agreement: Additional Time to Deliver Marketing Consultant’s Report. Notwithstanding the requirements of Section 8.6(c) of the Original Installment Sale Agreement, the Corporation shall have until August 15, 2022 to submit a Marketing Consultant’s report and plan addressing the failure to meet the Residential Unit Occupancy Target for the quarter ended March 31, 2022 (collectively, the “2022 Consent Request”).

E. Adding the following requirement to the Original Installment Sale Agreement: Additional Information. Within 10 days of the delivery of the Marketing Consultant’s report, the Marketing Consultant shall host a call with the Trustee and holders of the Bonds to discuss the Marketing Consultant’s review and recommendations.

WHEREAS, the Agency granted the 2022 Consent Request and agreed to and entered into certain amendments authorized by such consent; and

WHEREAS, Applicant declared bankruptcy and, on December 27, 2023, its assets were approved to be sold by the bankruptcy court to Life Care Services Communities LLC D/B/A LCS Real Estate, an affiliate of LCS Harborside LLC (“LCS Harborside”), a limited liability company organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York, who will assign its rights to LCS Harborside (the “Bankruptcy Order”); and

WHEREAS, LCS Harborside has made an application to the Agency requesting that the Agency consider undertaking a project consisting of the following: (A)(1) the acquisition of an interest in the Land, (2) the renovation of an approximately 924,233 square foot, six-story building on the Land, together with related improvements to the Land, and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and 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, retail space and amenities and related infrastructure such as roads, sewers, utilities, parking lots, drainage areas, ponds and maintenance facilities (collectively, the “2024 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; and (C) the lease (with an obligation to purchase), license or sale of the 2024 Project Facility to LCS Harborside or such other entity as may be designated by LCS Harborside and agreed upon by the Agency; and

WHEREAS, pursuant to a notice letter of its bankruptcy counsel, dated June 14, 2024 (the “2024 Notice Letter”), Applicant notified the Agency that, shortly after the Bankruptcy Order, and following appeal, Applicant entered into a global settlement agreement (the “Global Settlement Agreement”) with (i) the Official Committee of Unsecured Creditors appointed in the Chapter 11 Case, (ii) Amsterdam Continuing Care Health System, Inc., Applicant’s sole corporate member, (iii) Amsterdam Nursing Home Corporation (1992) d/b/a Amsterdam Nursing Home, (iv) UMB Bank, N.A., in its capacity as bond trustee, and (v) certain holders of the Bonds (collectively, the “Settlement Parties”); and



WHEREAS, pursuant to the 2024 Notice Letter, Applicant has advised that, subject to the terms and conditions set forth in the Global Settlement Agreement, the Settlement Parties have agreed to, among other things, support the sale of the Project Facility to LCS Harborside; and

WHEREAS, pursuant to the 2024 Notice Letter, Applicant has advised that, on April 3, 2024, the Bankruptcy Court entered an order [Dkt. No. 698] approving the Global Settlement Agreement; and

WHEREAS, pursuant to the 2024 Notice Letter, Applicant has asserted the residents of the Project Facility overwhelmingly support the sale of the Project Facility to LCS Harborside; and

WHEREAS, on May 13, 2024, the United States Bankruptcy Court Eastern District New York, confirmed Applicant's Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code (collectively, with the Bankruptcy Order and Global Settlement Agreement, the "Court Order"); and

WHEREAS, pursuant to the 2024 Notice Letter, Applicant requests that the Agency consent to the sale of the Project Facility to LCS Harborside pursuant to the terms of the Bankruptcy Order and waive any recapture obligation that may exist under the Applicant's agreements with the Agency; and

WHEREAS, pursuant to communications by Applicant with the Agency's staff prior to and after the 2024 Notice Letter, the Agency recognizes that granting Applicant's request of consent to the sale of the Project Facility to LCS Harborside pursuant to the terms of the Bankruptcy Order and the Global Settlement Agreement and waiver of any recapture obligation that may exist under the Applicant's agreements with the Agency, must be conditioned upon LCS Harborside (i) receiving all New York State regulatory approvals enabling it to purchase the 2024 Project Facility; (ii) receiving an extension of the Outside Closing Date as such term is defined in the Court Order; and (iii) closing on purchasing the 2024 Project Facility and substantially simultaneously therewith, executing and delivering documentation with the Agency evidencing (x) the appointment of LCS Harborside as agent of the Agency to undertake the acquisition, renovation, installation and equipping of the 2024 Project Facility; (y) the Agency's subleasing of the 2024 Project Facility to LCS Harborside; and (z) the provision of financial assistance to LCS Harborside by the Agency with respect to the acquisition, renovation, installation and equipping of the 2024 Project Facility; (the "Proposed Termination Consent"); and

WHEREAS, no additional financial assistance is being requested by Applicant with respect to such request and, therefore, no public hearing of the Agency is required pursuant to Section 859-a of the Act; and

WHEREAS, the Agency is willing to consent to the Proposed Termination Consent, all subject to the terms of this resolution;

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

1. Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Indenture of trust and the Loan Agreement.

2. The Agency determines that the Applicant's request with respect to a previously approved and unchanged Project 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.

3. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Chairman, the Vice Chairman, the Chief Executive Officer/Executive Director, and the staff of the Agency with respect to the matters contemplated by this Resolution, including, without limitation, those actions required to ensure full compliance with the requirements of the Act and all other Applicable Laws that relate thereto.

4. The Agency hereby recognizes the Court Order and consents to the Proposed Termination Consent subject to the conditions set forth within the Proposed Termination Consent. The execution and delivery of termination documents and agreements required to effectuate the Proposed Termination Consent (collectively, the "Termination Documents"), being substantially in the forms utilized by the Agency for prior transactions, are hereby authorized and approved. The Chairman, the Vice Chairman, Chief Executive Officer/Executive Director, Chief Operating Officer and Administrative Director of the Agency are each hereby authorized, acting individually or jointly, to execute, acknowledge and deliver the Termination Documents. The execution and delivery of the Termination Documents by any one of said officers shall be conclusive evidence of due authorization and approval.

5. The Chairman, the Vice Chairman, the Chief Executive Officer/Executive Director of the Agency are each 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 consents, agreements, papers, instruments, opinions, certificates, affidavits and other documents required in connection with the Termination Documents (collectively, the "Consent Documents"), and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, including, without limitation, taking any necessary action to obtain consent of any other person or party necessary with respect to execution, delivery and approval of the Consent Documents.

6. The authorizations set forth in this Resolution are subject to the condition that the Applicant shall reimburse the Agency for all costs and expenses incurred by the Agency in connection with the transactions contemplated herein, including, without limitation, the Agency's basic termination fee in the amount of \$2,000 and all reasonable attorneys' fees and disbursements incurred by the Agency, including without limitation, the fees and expenses of Special Counsel, Harris Beach PLLC.

7. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution, the Termination Documents and the Consent 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; provided, however, that no covenants, stipulations, obligations or agreements of the Agency contained in this Resolution, any Termination Document or any Consent Document shall give rise to any pecuniary liability of the Agency or a charge against its general credit or shall obligate the Agency in any way except to the extent that the same can be paid or recovered from the Project Facility or the sale or liquidation of the Project Facility or revenues therefrom.

8. No covenant, stipulation, obligation or agreement herein contained or contained in any Termination Document or any Consent Document 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 any Termination Document or any Consent Document shall be liable personally on the Termination Documents or the Consent Documents or be subject to any personal liability or accountability by reason of the issuance thereof.

9. The Chairman, the Vice Chairman, the Chief Executive Officer/Executive Director of the Agency are each hereby authorized to approve modifications to the terms approved herein which are not inconsistent with the intent and substance of this Resolution, such approval to be evidenced by the execution by any one of such officers of the Termination Documents and/or the Consent Documents containing such modifications.

10. This Resolution shall take effect immediately.

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

William H. Rockensies	VOTING	AYE
John Coumatos	VOTING	AYE
Raymond Pinto	VOTING	Absent
Reginald A. Spinello	VOTING	Absent
Marco Troiano	VOTING	AYE
Joseph Manzella	VOTING	AYE
Marissa Brown	VOTING	AYE

The foregoing Resolution was thereupon declared duly approved.

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

We, the undersigned [~~Assistant~~] Secretary and [~~Vice~~] Chair of the Nassau County Industrial Development Agency (the “Agency”), do hereby certify that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on June 27, 2024, with the original thereof on file in our 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 matter therein referred to.

WE 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.

WE 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, we have hereunto set our hands and affixed the seal of the Agency this 27 day of June, 2024.

  
\_\_\_\_\_  
[~~Assistant~~] Secretary

  
\_\_\_\_\_  
[~~Vice~~] Chair