

**RESOLUTION AUTHORIZING REFINANCING
EASTWYCK VILLAGE ASSOCIATES, LLC
“SUMMIT AT EASTWYCK” PROJECT**

A regular meeting of Rensselaer County Industrial Development Agency (the “Agency”) was convened in public session in the 3rd Floor Conference Room at the Quackenbush Building located at 333 Broadway in the City of Troy, Rensselaer County, New York on February 13, 2020 at 4:00 o’clock p.m., local time.

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

PRESENT:

John H. Clinton, Jr.	Chairman
Michael Della Rocco	Vice Chairman
Cynthia A. Henninger	Secretary/Treasurer
Ronald Bounds	Assistant Secretary/Treasurer

ABSENT:

Douglas Baldrey	Member
James Church	Member
Renee Powell	Member

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Robert L. Pasinella, Jr.	Executive Director
Robin LaBrake	Assistant
Peter Kehoe, Esq.	Agency Counsel
M. Cornelia Cahill, Esq.	Special Counsel

The following resolution was offered by Michael Della Rocco, seconded by Ronald Bounds, to wit:

Resolution No. 0220-8

**RESOLUTION CONSENTING TO A CERTAIN MORTGAGE AND
AUTHORIZING THE EXECUTION BY RENSSELAER COUNTY
INDUSTRIAL DEVELOPMENT AGENCY OF A CERTAIN
SUBORDINATION AGREEMENT IN CONNECTION WITH THE
EASTWYCK VILLAGE ASSOCIATES, LLC PROJECT.**

WHEREAS, Rensselaer County Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of 1969 Laws of New York, constituting Title 1 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 128 of the 1974 Laws of New York, as amended, constituting Section 903-d 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, 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 June 10, 2010 the Agency undertook a project (the “Project”) on behalf of Eastwyck Village Associates, LLC (the “Company”) consisting of the following: (A) (1) the acquisition of an interest in an approximately 18.5 acre parcel of land located on the southeast corner of Best Road and Route 43 in the Town of North Greenbush, Rensselaer County, New York (the “Land”), (2) the construction on the Land of (a) three (3), 3-story buildings to contain approximately 57,000 square feet of space, (b) an approximately 10,000 square foot community center facility and (c) approximately 220 associated parking garages (collectively, the “Facility”) and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”), all of the foregoing to be managed and operated by DePaul Housing Management Corporation, a New York not-for-profit corporation (the “Manager”), as a senior living complex containing 144 senior housing units (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”); and (B) the granting of certain other “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance, the Agency entered into the following documents (hereinafter collectively referred to as the “Project Documents”): (A) a certain lease to agency dated as of June 1, 2010 (and a memorandum thereof) dated as of June 1, 2010, (the “Lease to Agency”) by and between the Company and the Agency, pursuant to which, among other things, the Agency acquired a leasehold interest in the Land and the improvements now or hereafter located on the Land from the Company, (B) a certain license agreement dated as of June 1, 2010 (the “License to Agency”) by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company will grant to the Agency (a) a license to enter upon the balance of the Land (the “Licensed Premises”) for the purpose of undertaking and completing the Project and (b) in the event of an occurrence of an Event of Default by the Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement (as hereinafter defined); (C) a lease agreement (and a memorandum thereof) dated as of June 1, 2010 (the “Lease Agreement” and, collectively with the Lease to Agency, the “Leases”) by and between the Agency and the Company, pursuant to which, among other things, the Company agreed to undertake and complete the Project as agent of the Agency

and the Company further agreed to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency's administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project, (C) a payment in lieu of tax agreement dated as of June 1, 2010, (the "PILOT Agreement") by and between the Agency and the Company pursuant to which the Company agreed to pay certain payments in lieu of taxes with respect to the Project Facility; and (D) various certificates relating to the Project; and

WHEREAS, in order to finance the Project, the Company obtained from Century Funding I, LLC, a loan in the amount of \$21,719,700 (the "Loan"), which loan was assigned to Century Health Capital, Inc. (the "Lender"); and

WHEREAS, the Agency joined in the execution of a mortgage (the "Mortgage"), an assignment of note and mortgage (the "Mortgage Assignment") and a mortgage modification and note substitution agreement (the "Mortgage Modification") (the Mortgage, the Mortgage Assignment and the Mortgage Modification, collectively, the "Lender Documents") from the Agency and the Company to the Lender to secure the Loan, which Lender Documents granted to the Lender a collateral mortgage on and security interest in the Project Facility and assigned to the Lender all rents and leases relating to the Project Facility; and

WHEREAS, the Agency has been informed by the Company that it intends to refinance the Loan with the Lender (the "Refinanced Loan"), which Refinanced Loan will be secured by, among other items, a Consolidated Multifamily Mortgage, Assignment of Leases and Rents and Security Agreement dated the date hereof in favor of Lender (the "Refinanced Mortgage"), which Refinanced Mortgage is made part of that certain Consolidation, Modification, Extension and Note Substitution Agreement between the Company and the Lender; and

WHEREAS, the Lender requires that the Agency enter into a subordination agreement by and among the Agency, the Lender and the Company (the "Subordination Agreement") and agree to subordinate the Leases to the interests of the Lender in the Project Facility; and

WHEREAS, the Company has requested that the Agency consent to the Refinanced Mortgage and join in the execution of the Subordination Agreement (the "Request"); and

WHEREAS, the Refinanced Mortgage shall constitute a "Permitted Encumbrance" under the Lease Agreement; and

WHEREAS, the Agency will not grant Financial Assistance in the form of a mortgage recording tax exemption with respect to the recording of the Refinanced Mortgage in Rensselaer County Clerk's office; 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, being 6 NYCRR Part 617, as amended (the "Regulations" and collectively with the SEQR Act, "SEQRA"), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to proceed with the Request; and

WHEREAS, pursuant to SEQRA, the Agency has examined the Request in order to make a determination as to whether the Request is subject to SEQRA, and it appears that the Request constitutes a Type II action under SEQRA;

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

Section 1. Based upon an examination of the Request, the Agency hereby makes the following determinations:

(A) The Request constitutes a “Type II action” pursuant to 6 NYCRR 617.5(c)(23), and therefore that, pursuant to 6 NYCRR 617.6(a)(1)(i), the Agency has no further responsibilities under SEQRA with respect to the Request.

Section 2. The Agency, based upon the representations made by the Company to the Agency, hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) The execution and delivery of the Subordination Agreement and the refinancing of the Loan will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of the Rensselaer County, New York and the State of New York and improve their standard of living and will serve the public purposes of Article 18-A of the General Municipal Law by preserving permanent, private sector jobs and increasing the overall number of private sector jobs in the State.

Section 3. In consequence of the foregoing, the Agency consents to the Refinanced Mortgage, which shall be a “Permitted Encumbrance” under the Lease Agreement, and agrees to subordinate the Leases to the interests of the Lender in the Project Facility.

Section 4. Subject to (A) approval of the form of the Subordination Agreement, by Special Counsel to the Agency and (B) receipt by the Executive Director of (1) the Agency’s administrative fee relating to the Request, if any, and (2) counsel’s fees relating to the Request, the Agency hereby authorizes the execution and delivery by the Agency of the Subordination Agreement.

Section 5. The law firm of Barclay Damon LLP is hereby appointed Special Counsel to the Agency with respect to all matters in connection with the Request. Special Counsel for the Agency is hereby authorized, at the expense of the Company, to work with the Company, counsel to the Company and others to prepare, for submission to the Agency, all documents necessary to effect the transactions contemplated by this Resolution.

Section 6. The Chairman (or Vice Chairman) of the Agency is hereby authorized to execute and deliver the Subordination Agreement to the Company, and, where appropriate, the

Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in substantially the form thereof presented to this meeting, with such changes, variations, omissions and insertions as the Chairman (or Vice Chairman) shall approve, the execution thereof by the Chairman (or Vice Chairman) to constitute conclusive evidence of such approval.

Section 7. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Subordination Agreement, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Subordination Agreement binding upon the Agency.

Section 8. The Chairman, Vice Chairman and/or Executive Director of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 9. 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:

John H. Clinton, Jr.	VOTING	AYE
Michael Della Rocco	VOTING	AYE
Cynthia A. Henninger	VOTING	AYE
Ronald Bounds	VOTING	AYE
Douglas Baldrey	VOTING	ABSENT
James Church	VOTING	ABSENT
Renee Powell	VOTING	ABSENT

The foregoing Resolution was thereupon declared duly adopted.


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

I, the undersigned (Assistant) Secretary of Rensselaer County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on February 13, 2020 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 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 13th day of February, 2020.



(Assistant) Secretary

(SEAL)