

Township of West Milford

Passaic County, New Jersey

~ Resolution 2021 – 439 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY ENDORSING THE SUBMITTAL OF A LOAN APPLICATION TO BE MADE BY FARM CREST ACRES ASSOCIATION, INC. TO THE STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION, DAM SAFETY SECTION, DAM RESTORATION LOAN AND AUTHORIZING THE EXECUTION OF SAID LOAN AGREEMENT AS CO-BORROWER WITH FARM CREST ACRES ASSOCIATION, INC.

WHEREAS, Farm Crest Acres Association, Inc. (“Association”) is a private lake association in West Milford; and

WHEREAS, the Association is the operator of two dams located on Farm Crest Acres Lake (Upper Crest Lake Dam and Lower Crest Lake Dam) which dams have been determined, based upon engineering investigations to be in need of repair, improvement and rehabilitation; and

WHEREAS, the State of New Jersey, Department of Environmental Protection, Dam Safety Section, Dam Restoration Loan offers loans to private entities to effectuate such dam repairs with the condition that the municipality within which the dam is located signs a loan agreement as Co-Borrower; and

WHEREAS, the Association has secured initial State of New Jersey, Department of Environmental Protection, Dam Safety Section, Dam Restoration Loans in the amount of \$600,000.00 for the Upper Crest Lake Dam and the amount of \$480,000 for the Lower Crest Lake Dam, which the Township has signed loan agreements as Co-Borrower; and

WHEREAS, the initial loan doesn’t fully cover the expected cost of the required dam repairs and an additional \$100,000 is estimated to be required in order to fully cover the expected cost; and

WHEREAS, the Association wishes to make a second application to the DEP loan funding program to effectuate the full scope of the required dam repairs; and

WHEREAS, the Township determines that the repair, improvement and rehabilitation of the Upper Crest Lake Dam and Lower Crest Lake Dam and execution of the DEP Loans are in the best interests of the residents of the Township; and

WHEREAS, the Township has conditioned the Township’s agreement to sign the Loan as Co-Borrower upon the Association’s successful application and execution of a satisfactory Dam Rehabilitation Co-Borrower Agreement, the application of which is in progress; and

WHEREAS, the Township’s agreement to sign the Loan as Co-Borrower shall include a “hold harmless” provision, in the event a property owner files a successful appeal of their assessment, and if successful, the Township maintains the right and shall recover that amount from Farm Crest Association, Inc.; and

WHEREAS, the Township Council desires to grant the Mayor and Township Clerk the authority to execute the DEP Loan Agreement in the event that the Association executes a Co-Borrower Agreement acceptable to the Township; and

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Township of West Milford that the Township does hereby endorse the application by Farm Crest Acres Association, Inc, for a DEP loan to effectuate dam repairs at the Upper Crest Lake Dam and Lower Crest Lake Dam in the

Township of West Milford.

BE IT FURTHER RESOLVED, by the Mayor and Council of the Township of West Milford as follows:

1. Upon DEP approval and upon the Association's agreement to, and execution of, an acceptable Co-Borrower Agreement, the Mayor and Township Clerk are authorized to execute the DEP Loan Agreement as the Co-Borrower for a loan in an amount of not more than \$100,000.00 and to execute any amendments thereto.
2. In the event the Township executes the DEP Loan as a Co-Borrower, the Township of West Milford agrees to certify and assess the costs of the dam restoration project as set forth in the DEP Loan against the properties benefited thereby and to repay the loan to the State in accordance with the terms and conditions of the DEP Loan.
3. The Township's agreement to sign the Loan as Co-Borrower shall include a "hold harmless" provision, in the event a property owner files a successful appeal of their assessment, and if successful, the Township maintains the right and shall recover that amount from Farm Crest Association, Inc.;
4. The Township of West Milford agrees to comply with all applicable deferral, State, and municipal laws, rules and regulations in its performance pursuant to the DEP Loan.

Adopted: December 8, 2021

Adopted this 8th day of December, 2021
and certified as a true copy of an original.

William Senande, Township Clerk