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June 26, 2024

VIA REGULAR MAIL AND E-MAIL

Town of Guilderland Industrial Development Agency
Guilderland Town Hall
5209 Western Turnpike
P.O. Box 339
Albany, New York 12084
Attention: Jessica Montgomery, Administrative Assistant

Re: Town of Guilderland Industrial Development Agency
Resolutions from June 26, 2024 Meeting

Dear Jessica:

Enclosed herewith for your files please find one (1) original certified, sealed copy of the following resolution:

June 26, 2024 Meeting:

1. Resolution Accepting/Approving Appraisal and Authorizing Further Action.

If any of the foregoing should raise any comments or questions, please do not hesitate to contact Christopher Canada.

Very truly yours,

A handwritten signature in black ink, appearing to read "C. Canada".

Christopher C. Canada, Esq.

CCC/cle

Enclosure

cc: Donald Csaposs, Chief Executive Officer (w/enclosure; via e-mail)
A Joseph Scott, III (w/enclosure, via email)

**TOWN OF GUILDERLAND INDUSTRIAL DEVELOPMENT AGENCY
CROSSGATES RELEASCO LLC PROJECT
RESOLUTION ACCEPTING/APPROVING APPRAISAL AND
AUTHORIZING FURTHER ACTION**

A regular meeting of Town of Guilderland Industrial Development Agency (the “Agency”) was convened in public session in the Town Board Room of the Guilderland Town Hall located on 5209 Western Turnpike in the Town of Guilderland, Albany County, New York on June 25, 2024 at 7:00 o’clock p.m., local time.

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

PRESENT:

Shelly Johnston	Chair
William H. Smart	Treasurer/Assistant Secretary
Vera Dordick	Secretary/Assistant Treasurer
Paul Pastore, Esq.	Member
Daniel A. Centi	Member
Peter McAnearney	Member

ABSENT:

RECUSED:

Christopher Bombardier	Vice Chair
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AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Donald Csaposs	Chief Executive Officer
Christopher C. Canada, Esq.	Agency Counsel
A. Joseph Scott, III, Esq.	Agency Counsel

The following resolution was offered by Shelly Johnston, seconded by William H. Smart, to wit:

Resolution No. 0624-__

**RESOLUTION APPROVING THE APPRAISAL REPORT FOR THE CROSSGATES
RELEASCO PROJECT PURSUANT TO SECTION 302 OF THE EMINENT DOMAIN
PROCEDURE LAW AND AUTHORIZING FURTHER ACTION WITH RESPECT TO
PROCEEDING WITH THE PROPERTY ACQUISITION FOR THE PROJECT.**

WHEREAS, Town of Guilderland Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 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 146 of the 1973 Laws of New York, as amended, constituting Section 909-a 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 commercial, manufacturing and industrial 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 (the "State"), 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 and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, in March and May, 2023, Crossgates Releaseco LLC, a limited liability company duly organized and existing under the laws of the State and its affiliates and assigns (the "Company"), submitted an application (the "Application") to the Agency, which Application, requested that the Agency consider undertaking a project (the "Project") for the benefit of the Company, and its designees, said Project consisting of the following: (A) the acquisition of (1) fee simple title absolute to lands underlying five (5) former Town Roads, and any buildings and other improvements, if any, situated thereon, that the Town of Guilderland, New York (the "Town") has previously discontinued, which are associated with the Project site (the "Town Roads"), (2) purported historic deed restrictions that may apply to properties along Crossgates Mall Road and Western Avenue, in the Town of Guilderland, Albany County, New York, which are located within and adjacent to the Project site (the "Purported Deed Restrictions"); and (3) any rights or interests to enforce the Purported Deed Restrictions that certain properties within and adjacent to the Project site may have (the "Purported Rights to Enforce") (the Town Roads, the Purported Deed Restrictions and the Purported Rights to Enforce hereinafter collectively referred to as the "Restrictions, Rights, or Property"); (B) (1) the acquisition of a lease/leaseback interest in the Company's various parcels of land containing approximately +/- 16.0 acres located along Crossgates Mall Road and Western Avenue, in the Town of Guilderland, Albany County, New York (such parcels being referred to hereinafter as the "Land"), (2) the construction of a commercial and retail facility to contain in the aggregate approximately +/- 160,000 square feet of space (the "Facility"), and (3) the acquisition and installation therein and thereon of certain machinery, equipment, improvements and fixtures (collectively, the "Equipment") (the Restrictions, Rights, or Property, the Land, the Facility and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to be owned by the Company, or its designee, and operated as a Costco facility and any directly or indirectly related uses; (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 from certain sales and use taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (D) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, pursuant to the authorization contained in a resolution adopted by the members of the Agency on March 28, 2023, the Agency and the Company executed and delivered a certain funding agreement dated August 22, 2023 (the "Funding Agreement"); and

WHEREAS, the Agency has determined after consultation with counsel and review of the matter that, for a variety of reasons, including a change of the zoning district within which the Restrictions, Rights, or Property are located that (a) a court would likely find that the Purported Deed Restrictions and Purported Rights to Enforce are no longer valid or of legal effect; and (b) with respect to the Town Roads, the Superintendent of Highways of the Town (the "Superintendent") discontinued the Town Roads pursuant to Section 207 of the Highway Law of the State of New York (the "Highway Law"); and

WHEREAS, in connection with the undertaking of the Project, the Company has requested the Agency to consider exercising its powers of condemnation in accordance with the provisions of the Eminent

Domain Procedure Law of the State of New York (the “EDPL”) to assist the Company in: (A) acquiring the Purported Deed Restrictions, if and to the extent the same remain enforceable; (B) acquiring the Restrictions, Rights, or Property; and (C) filing an appropriate instrument confirming the extinguishment of Purported Deed Restrictions; 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 (the “Regulations”, and collectively with the SEQR Act, “SEQRA”), by resolution adopted by the members of the Agency on August 22, 2023 (the “SEQRA Resolution”), the Agency acknowledged receipt and review of the SEQRA record materials that were developed by the SEQRA lead agency (the “SEQRA Record”) and issued its SEQRA findings statement (the “SEQRA Findings”); and

WHEREAS, by resolution adopted by the members of the Agency on August 22, 2023 (the “Approving Resolution”), the Agency determined to grant the Financial Assistance and to enter into a lease agreement (the “Lease Agreement”) by and between the Agency and the Company and certain other documents related thereto and to the Project (collectively with the Lease Agreement, the “Basic Documents”); and

WHEREAS, by resolution adopted by the members of the Agency on August 22, 2023 (the “Determination and Findings Resolution”), the Agency issued its Determination and Findings pursuant to Article 2 of the EDPL, determining to acquire the fee interests in the Town Roads and to acquire the Purported Deed Restrictions and the Purported Rights to Enforce; and

WHEREAS, the Agency’s Determination and Findings Resolution was challenged in the Appellate Division, Third Department pursuant to Section 207 of the EDPL in *Hart et al. v. Town of Guilderland Indus. Dev. Agency*, Third Department Docket No. CV-23-1696, and the Court upheld the Agency’s Determination and Findings Resolution in its entirety; and

WHEREAS, pursuant to Article 3 of the EDPL, the Agency has commissioned an appraisal report (the “Appraisal Report”) of the Restrictions, Rights, or Property for the purpose of [making] offers [to the current owners] pursuant to Section 303 of the EDPL; and

WHEREAS, the Agency has received and reviewed the Appraisal Report and desires to accept and approve such Appraisal Report; and

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

Section 1. The Agency has reviewed a copy of the Appraisal Report, a copy of which is attached hereto as Schedule A and is incorporated herein by reference, and hereby accepts and approves the Appraisal Report (the “Approved Appraisal”) in all respects pursuant to Section 302 of the EDPL. The Agency finds that the Approved Appraisal establishes the just compensation for the Restrictions, Rights, or Property that support the making of written offers pursuant to Section 303 of the EDPL.

Section 2. The Chair or Chief Executive Officer of the Agency, is hereby authorized to take all necessary actions, whether directly or through counsel, to proceed in connection with the acquisition of the Restrictions, Rights, or Property, including, but not limited to, the making of formal offers pursuant to the EDPL consistent with the amounts as set forth in the Approved Appraisal and commencing a proceeding seeking an order to file an acquisition map(s) pursuant to Article 4 of the EDPL; provided however that any

such action is expressly subject to the following: (A) the Offer Deposit is made pursuant to Section 4.6 of the Funding Agreement, (B) the Reserve Deposit is made pursuant to Section 4.7 of the Funding Agreement, and (C) the Escrow Account pursuant to Section 4.2 of the Funding Agreement is sufficiently funded.

Section 3. Subject to the satisfaction of the conditions described in Section 2 hereof, the Chair or Chief Executive Officer of the Agency, whether directly or through counsel, is hereby authorized to take the actions described in Section 2 hereof including, without limitation, the execution and delivery of any documents in connection therewith, 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, variation, omissions and insertions as the Chair or Chief Executive Officer shall approve, the execution thereof by the Chair or Chief Executive Officer to constitute conclusive evidence of such approval.

Section 4. The Board hereby delegates, authorizes and directs the officers, employees and agents of the Agency, without the need for further Board action, to do all acts and things required or provided for by the provisions of this resolution, 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.

Section 5. 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:

Shelly Johnston	VOTING	YES
Christopher Bombardier	VOTING	RECUSED
William H. Smart	VOTING	YES
Vera Dordick	VOTING	YES
Peter McAnearney	VOTING	YES
Paul Pastore, Esq.	VOTING	YES
Daniel A. Centi	VOTING	YES

The resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of Town of Guilderland 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 June 25, 2024 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 25th day of June, 2024.



(Assistant) Secretary

(SEAL)

SCHEDULE A
APPROVED APPRAISAL
- ON FILE WITH THE AGENCY -