

NOTICE OF PUBLIC HEARING
ON PROPOSED PROJECT
AND FINANCIAL ASSISTANCE
RELATING THERETO

Notice is hereby given that a public hearing pursuant to Section 859-a(2) of the General Municipal Law of the State of New York (the "Act") will be held by the Town of Guilderland Industrial Development Agency (the "Agency") on the 31st day of May, 2023 at 7:00 o'clock p.m., local time, in the Town Board Room of the Guilderland Town Hall located at 5209 Western Turnpike in the Town of Guilderland, Albany County, New York (the "Town") in connection with the following matters:

Crossgates Releaseco, LLC (the "Company"), a limited liability company duly organized and existing under the laws of the State of New York, submitted an application (the "Application") to the Agency, a copy of which Application is on file at the office of 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 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.

The Agency has been advised (a) by counsel to the Company that, for a variety of reasons, including a change of the zoning district within which the underlying properties are located that 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) that, 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").

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.

The Agency is considering whether to (A) undertake the Project, (B) exercise its powers of condemnation, and (C) provide certain exemptions from taxation with respect to the Project, including (1) exemption from mortgage recording taxes with respect to any documents, if any, recorded by the Agency with respect to the Project in the office of the County Clerk of Albany County, New York or elsewhere, and (2) exemption from sales taxes relating to the acquisition, construction and installation of the Project Facility. If any portion of the Financial Assistance to be granted by the Agency with respect to the Project is not consistent with the Agency's uniform tax exemption policy, the Agency will follow the procedures for deviation from such policy set forth in Section 874(4) of the Act prior to granting such portion of the Financial Assistance.

If the Agency determines to proceed with the Project, the Project Facility will be acquired, constructed and installed by the Agency and will be leased (with an obligation to purchase) or sold by the Agency to the Company or its designee pursuant to a project agreement (the "Agreement") requiring that the Company or its designee make certain payments to the Agency.

The Town of Guilderland Planning Board previously completed a comprehensive Final Environmental Impact Statement ("FEIS") for the Project consistent with Article 8 of Environmental Conservation Law and the regulations thereunder, known as the State Environmental Quality Review Act ("SEQR"). Consistent with SEQR, the Agency will issue findings pursuant to the FEIS prior to taking any action on the Project.

The Agency will at said time and place hear all persons with views on either the location and nature of the proposed Project, or the Financial Assistance being contemplated by the Agency in connection with the proposed Project. Members of the public are invited to (1) attend the Public Hearing in-person on the 31st day of May, 2023 at 7:00 o'clock p.m., local time, in the Town Board Room of the Guilderland Town Hall located at 5209 Western Turnpike in the Town of Guilderland, Albany County, New York; (2) present oral and/or written statements or other documents concerning this matter; and (3) view or listen to the Public Hearing via the Agency's live-stream at: <https://www.townofguilderland.org/town-meeting-videos>. A copy of the Application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project prepared by Camoin Associates dated August 11, 2022, is available for public inspection during business hours at the offices of the Agency. A transcript or summary report of the hearing will be made available to the members of the Agency.

Additional information can be obtained from, and written comments may be addressed to: Donald Csaposs, Chief Executive Officer, Town of Guilderland Industrial Development Agency, Guilderland Town Hall, 5209 Western Turnpike, Guilderland, New York 12084; Telephone: (518) 356-1980, and electronically at: csapossd@togny.org.

Dated: May 16, 2023

TOWN OF GUILDERLAND INDUSTRIAL
DEVELOPMENT AGENCY

BY: /s/ Shelly Johnston
Chair