

**RESOLUTION AUTHORIZING RELEASE OF CERTAIN PARCEL
DAVEY'S REALTY, LLC 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 October 13, 2022 at 4:00 o'clock p.m., local time.

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

PRESENT:

Cynthia A. Henninger	Chair
Ronald Bounds	Secretary/Treasurer
Douglas Baldrey	Member
John H. Clinton, Jr.	Member
Renee Powell	Member

ABSENT:

Michael Della Rocco	Vice Chair
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AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Robert L. Pasinella, Jr.	Executive Director
Lucas Ashby	Assistant Executive Director
Robin LaBrake	Assistant
Peter R. Kehoe, Esq.	Special Agency Counsel
Nadene E. Zeigler, Esq.	Special Counsel

The following resolution was offered by Ronald Bounds, seconded by Douglas Baldrey, to wit:

Resolution No. 1022-08

RESOLUTION CONSENTING TO AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS WITH RESPECT TO THE RELEASE OF A CERTAIN PARCEL OF LAND LOCATED IN THE TOWN OF NORTH GREENBUSH, RENSSELAER COUNTY, NEW YORK FROM THE LEASE AGREEMENT AND OTHER DOCUMENTS IN CONNECTION WITH THE DAVEY'S REALTY, 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 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 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 9, 2017 (the “Closing”), the Agency entered into a lease agreement dated as of June 1, 2017 (the “Lease Agreement”) by and between the Agency and Davey’s Realty, LLC (the “Company”) for the purpose of undertaking a project (the “Project”) consisting of the following: (A) (1) the acquisition of an interest in a portion of an approximately 5.6 acre parcel of land located at 97 North Greenbush Road in the Town of North Greenbush, Rensselaer County, New York (being a portion of tax map number 123.9-3-2) (the “Land”), (2) the construction on the Land of an approximately 14,000 square foot building (the “Facility”) and (3) the acquisition and installation therein and thereon of certain machinery and equipment (collectively, the “Equipment”), all of the foregoing to constitute an auto body repair facility to be leased to and operated by JNJ Inc. (the “Tenant”) (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”); (B) 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, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease of the Project Facility to the Company pursuant to the Lease Agreement; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the “Closing”), (A) the Company executed and delivered to the Agency (1) a certain lease to agency dated as of June 1, 2017 (the “Lease to Agency”) by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company leased to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the “Leased Premises”); (2) a certain license agreement dated as of June 1, 2017 (the “License to Agency”) by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company granted 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; and (3) a certain bill of sale dated as of June 1, 2017 (the “Bill of Sale to Agency”), which conveyed to the Agency all right, title and interest of the Company in the Equipment, (B) the Company and the Agency executed and delivered (1) a certain payment in lieu of tax agreement dated as of June 1, 2017 (the “Payment in Lieu of Tax 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, (2) a certain recapture agreement (the “Section 875 GML Recapture Agreement”) by and between the Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes and (3) a certain uniform project benefits dated as of June 1, 2017 (the “Uniform Project Benefits Agreement”) relating to the granting of the Financial Assistance by the Agency to the Company, (C) the Agency filed with the assessor and mailed to the chief executive officer of each “affected tax jurisdiction” (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the “Real Property Tax Exemption Form”) relating to the Project Facility and the Payment in Lieu of Tax Agreement, (D) the Agency executed and delivered to the Company a sales tax exemption letter (the “Sales Tax Exemption Letter”) to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance and (E) the Agency filed with the New York State Department of Taxation and Finance the form entitled “IDA Appointment of Project Operator

or Agent for Sales Tax Purposes” (the form required to be filed pursuant to Section 874(9) of the Act) (the “Thirty-Day Sales Tax Report”); and

WHEREAS, in order to finance a portion of the costs of the Project, the Company obtained a loan in the principal sum of \$2,000,000 (the “Loan”) from Saratoga National Bank & Trust Company (the “Lender”), which Loan was secured by a mortgage and security agreement dated as of July 26, 2017 (the “Mortgage”) from the Agency and the Company to the Lender; and

WHEREAS, by request dated September 22, 2022 (the “Request”), which Request is attached hereto to Exhibit A, the Agency was notified by the Company that the Company is selling an approximately 0.17 acre parcel of the Land (the “Parcel”); and

WHEREAS, pursuant to Section 9.3 of the Lease Agreement, the consent of the Agency is required prior to the release of the Parcel from the Project Facility (the “Release”); and

WHEREAS, pursuant to the Mortgage, the Release is subject to the release by the Lender (the “Lender Release”); 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”), it appears that the Release is not an “Action” under SEQRA and therefore is not subject to a SEQRA review by the Agency;

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

Section 1. Pursuant to SEQRA, the Release is not an “Action” under SEQRA and therefore is not subject to SEQRA review by the Agency.

Section 2. At the request of the Company, the Agency hereby consents to the Release and the execution of any documents necessary to effectuate the Release and the modification of the Basic Documents in connection therewith (collectively, the “Release Documents”); provided, however, that such consent is contingent upon (A) approval by Special Agency Counsel to the forms of the Release Documents (including, if required, the inclusion of any other land to the Mortgage to replace the Parcel), (B) compliance with the terms and conditions contained in the Basic Documents (as defined in the Lease Agreement), (C) executed copy of the Lender Release, (D) evidence satisfactory to the Agency that all taxes and other local fees and assessments relating to the Parcel, if any, have been paid by the Company, and (E) the payment by the Company of the administrative fee of the Agency, if any, and all other fees and expenses of the Agency in connection with the delivery of the Release Documents, including the fees of Agency Counsel.

Section 3. Subject to the satisfaction of the conditions described in Section 2 hereof, the Chair (or Vice Chair) of the Agency is hereby authorized to execute and deliver the Release Documents and the modified Basic Documents to reflect the Release, and, where appropriate, the 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 Chair (or Vice Chair) shall approve, the execution thereof by the Chair (or Vice Chair) to constitute conclusive evidence of such approval.

Section 4. 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 Release, 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 Release.

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:

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

The foregoing Resolution was thereupon declared duly adopted.


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

I, the undersigned 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 October 13, 2022 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.

13th IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this day of October, 2022.



Secretary

(S E A L)

EXHIBIT A

REQUEST

- SEE ATTACHED -

Malark, Meredith L.

To: Zeigler, Nadene E.
Subject: RE: 97 North Greenbush Road

From: Michael Milos <mmilos@colescollision.com>
Sent: Thursday, September 22, 2022 3:03 PM
To: Zeigler, Nadene E. <NZeigler@hodgsonruss.com>
Subject: 97 North Greenbush Road

External Email - Use Caution

Nadine,

Hope all is well. I was given your contact by the IDA We are looking to sell the sliver of a parcel at 97 North Greenbush Road. We are looking for a release of mortgage from the Rensselaer county IDA as they have an interest in the property. Can you let me know if that is something you can provide? Below is how it was explained to me and I have attached the tax map with highlighted portion for your reference on what we are selling.

"So before you can convey this portion of the lot out to John the bank will need to do a release of mortgage releasing this portion of the lot being conveyed out from the mortgage. Do you know if anyone has contacted the bank and the IDA to inquire if they are willing to do this? If so how long did they say it would take and how much are they going to require to do this on behalf to the owners/borrowers."

R. Michael Milos
Cole's Collision Centers
Chief Financial Officer
518-313-7852 P
mmilos@colescollision.com