

**RESOLUTION AUTHORIZING ASSIGNMENT AND ASSUMPTION
SCHODACK 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 of the Quackenbush Building located at 333 Broadway in the City of Troy, Rensselaer County, New York on December 8, 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
Michael Della Rocco	Vice Chair
Ronald Bounds	Secretary/Treasurer
Douglas Baldrey	Member
John H. Clinton, Jr.	Member

ABSENT:

Renee Powell	Member
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AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Robert L. Pasinella, Jr.	Executive Director
Robin LaBrake	Assistant
Peter R. Kehoe, Esq.	Special Agency Counsel
A. Joseph Scott, III, Esq.	Special Counsel

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

Resolution No. 1222-05

**RESOLUTION CONSENTING TO AND AUTHORIZING THE EXECUTION AND
DELIVERY OF CERTAIN DOCUMENTS WITH RESPECT TO THE ASSIGNMENT
AND ASSUMPTION OF THE SCHODACK 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 14, 2013 (the "Closing"), the Agency granted certain financial assistance to Schodack Realty, LLC (the "Original Company") to assist in financing a project (the "Project") consisting of the following: (A) (1) the acquisition of an interest in various parcels of land containing in the aggregate approximately 3.5 acres beginning at 1792 Columbia Turnpike on the easterly side of U.S. Routes 9 and 20 and proceeding northerly to I-90 interchange thence proceeding northerly along the easterly side of the I-90 interchange and I-90 to Kraft Road in the Town of Schodack, Rensselaer County, New York (collectively, the "Land"), (2) the construction on the Land of an approximately 1.5 mile sanitary sewer line and sewage pump station (collectively, the "Facility") and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the "Equipment"), all of the foregoing to constitute a sanitary sewer line to service an existing facility (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"); (B) the financing of all or a portion of the costs of the foregoing by the issuance of revenue bonds of the Agency in one or more issues or series in an aggregate principal amount sufficient to pay all or a portion of the cost of undertaking the Project, together with necessary incidental costs in connection therewith, said aggregate principal amount presently estimated to be approximately \$2,000,000 (the "Obligations"); (C) the payment of a portion of the costs incidental to the issuance of the Obligations, including issuance costs of the Obligations and any reserve funds as may be necessary to secure the Obligations; (D) 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 with the Obligations, the "Financial Assistance"); and (E) the lease of the Project Facility to the Original Company pursuant to the terms of a lease agreement dated as of June 1, 2013 (the "Lease Agreement"), by and between the Original Company and the Agency; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the "Closing"), (A) the Original Company executed and delivered to the Agency (1) a certain lease to agency dated as of June 1, 2013 (the "Lease to Agency") by and between the Original Company, as landlord, and the Agency, as tenant, pursuant to which the Original 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") for a lease term ending on December 31, 2024; (2) a certain license agreement dated as of June 1, 2013 (the "License to Agency") by and between the Original Company, as licensor, and the Agency, as licensee, pursuant to which the Original Company granted to the Agency (a) a license was entered into 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 Original Company, an additional license was entered into upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement; and (3) a bill of sale dated as of June 1, 2013 (the "Bill of Sale to Agency"), which conveyed to the Agency all right, title and interest of the Original Company in the Equipment, (B) the Original Company and the Agency executed and delivered a payment in lieu of tax agreement dated as of June 1, 2013 (the "Payment in Lieu of Tax Agreement") by and between the Agency and the Original Company, pursuant to which the Original Company agreed to pay certain payments in lieu of taxes with respect to the Project Facility, (C) a certain recapture agreement (the "Section 875 GML Recapture Agreement") by and between the Original Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes; (D) 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, (E) the Agency executed and delivered to the Original Company a sales tax exemption letter (the "Sales Tax Exemption Letter") which ensured the granting of the sales tax exemption which formed a part of the Financial Assistance and (F) 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") (collectively with the Lease Agreement, the "Basic Documents"); and

WHEREAS, in order to finance a portion of the costs of the Project, the Original Company obtained a loan in the principal sum of up to \$1,200,000 (the "Loan") from Hoosac Bank (the "Lender"), which Loan was secured by a mortgage, security agreement and leases dated as of June 1, 2013 (the "Mortgage") from the Agency and the Original Company to the Lender and (2) an assignment of rents and leases dated as of June 1, 2013 (the "Assignment of Rents") from the Agency and the Original Company to the Lender; and

WHEREAS, on or about November 29, 2022, by correspondence attached hereto (the "Request"), the Agency has been requested to consent to the assignment by the Original Company of the Project Facility and its interests in the Basic Documents to BAPA 1792 Columbia TPKE RE LLC, a limited liability company organized and existing under the laws of the State of New York (the "New Company"), and in connection with such conveyance, provide for the assignment of the Basic Documents from the Original Company to the New Company, as described in the Request; and

WHEREAS, the Lease Agreement provides that the Original Company is prohibited from selling, leasing, transferring or otherwise conveying any part of the Project Facility without the prior written consent of the Agency; and

WHEREAS, in connection with the conveyance of the Project Facility, the Original Company and the New Company have also requested that the Agency execute documents providing for the following (the "Conveyance and Assignment Documents"): the consent by the Agency of the conveyance of the Project Facility and the assignment and assumption of the Basic Documents from the Original Company to the New Company (the "Assignment and Assumption"); 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 execution and delivery of the Conveyance and Assignment Documents and New Mortgage (collectively, the "Assignment Documents"); and

WHEREAS, pursuant to SEQRA, the Agency has reviewed the Request in order to make a determination as to whether the execution and delivery of the Assignment Documents are subject to SEQRA, and it appears that the Request is not an "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) Pursuant to SEQRA, the approval of the Request is not an "Action" under SEQRA and therefore is not subject to SEQRA review by the Agency.

(B) The Agency will not be granting any mortgage recording tax exemption relating to the Request.

(C) That since compliance by the Agency with the Request will not result in the Agency providing more than \$100,000 of "financial assistance" (as such quoted term is defined in the Act) to the New Company, Section 859-a of the Act does not require a public hearing to be held with respect to the Request.

Section 2. The Agency hereby approves (A) the assignment to, and assumption by, the New Company of all of the Original Company's interest in the Project Facility, and the Basic Documents, including but not limited to the benefits of the Lease Agreement and the Payment in Lieu of Tax Agreement and (B) the assumption by the New Company of all obligations of the Original Company under the Basic Documents pursuant to an assignment and assumption agreement (the "Assignment and Assumption Agreement"); subject in each case, however to the following conditions: (1) receipt of confirmation that all real property taxes and payments in lieu of taxes required by the Project have been satisfied; (2) evidence of current certificates of insurance acceptable to the Agency; (3) receipt of confirmation from Agency counsel that no modifications shall result from the Request that result in any new tax relief for the Project (such as an extension of the term, increase in abatement or change in the Payment in Lieu of Tax Agreement); (4) compliance with the terms and conditions contained in the Assignment and Assumption Agreement and the Basic Documents; (5) receipt by Special Counsel of the written consent of the Lender and any other holder of any current mortgage on the Project Facility or evidence that there are no security documents relating to the Project; (6) approval by counsel to the Agency of the Assignment Documents; and (7) receipt by the Agency of its administrative fee relating to the Request, as reviewed by the Chair, Agency Counsel and Special Counsel, and all fees and expenses incurred by the Agency with respect to the Request, including the fees and expenses incurred by Agency counsel with respect thereto.

Section 3. Subject to (A) satisfaction of the conditions contained in Section 2 hereof, including the condition that no modifications provide any new tax relief for the Project (such as an extension of the term, increase in abatement or change in the Payment in Lieu of Tax Agreement); and (B) the execution and delivery of the Assignment Documents by the other parties thereto, the Chair (or Vice Chair) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Assignment Documents, 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 forms thereof approved by Counsel to the Agency, 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 Request, 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 Request.

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	<u>YES</u>
Michael Della Rocco	VOTING	<u>YES</u>
Ronald Bounds	VOTING	<u>YES</u>
Douglas Baldrey	VOTING	<u>YES</u>
John H. Clinton, Jr.	VOTING	<u>YES</u>
Renee Powell	VOTING	<u>ABSENT</u>

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 December 8, 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.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 8th day of December, 2022.


Secretary

(S E A L)

EXHIBIT A

REQUEST

- SEE ATTACHED -

PARIS|
ACKERMAN LLP

120 Eagle Rock Avenue
East Hanover, NJ 07936
T: 973.228.6667
F: 973.629.1246
www.parisackerman.com

November 29, 2022

VIA UPS

Rensselaer County Industrial Development Agency
1600 Seventh Avenue
Troy, New York 12180
Attention: Chairman

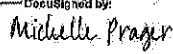
Re: ASSIGNMENT OF LEASE TO BAPA 1792 COLUMBIA TPKE RE LLC

Dear Sir or Madam:

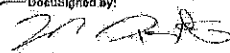
This firm represents BAPA 1792 COLUMBIA TPKE RE LLC, in connection with the purchase of 1792 Columbia Tpke, Schodack, NY 12033 from SCHODACK REALTY, LLC. Our client purchased the land for the continued use of one (1) Dunkin' Donuts restaurant. It is our request that the existing IDA benefits outlined in your lease with SCHODACK REALTY, LLC, dated June 1, 2013, be assigned to BAPA 1792 COLUMBIA TPKE LLC. Please let us know if there is anything else you will need from our firm or client to obtain approval at the next IDA meeting taking place on December 8, 2022.

Should you have any questions or require additional information, please do not hesitate to contact me at (973) 228-6667

Very truly yours,

DocuSigned by:

AC2864BCFA74C3
Michelle Prager, Esq.

BAPA 1792 COLUMBIA TPKE RE LLC

DocuSigned by:

F45D8CF60A2FB497
By: Manish Patel
Title: Manager

Cc: Peter R. Kehoe, Esq., Rensselaer County Attorney's Office, 1600 7th Ave, 4th Flr, Troy, New York 12180

Cc: George W. Cregg Jr. Esq., Hodgson Russ LLP, 677 Broadway, Suite 301, Albany, New York 1220

Cc: Nadine E. Ziegler, Esq., Hodgson Russ LLP, 677 Broadway, Suite 301, Albany, New York

Department of State Division of Corporations

Entity Information

[Return to Results](#)[Return to Search](#)

Entity Details

ENTITY NAME: BAPA 1792 COLUMBIA TPKE RE LLC.

DOS ID: 6610916

FOREIGN LEGAL NAME:

FICTITIOUS NAME:

ENTITY TYPE: DOMESTIC LIMITED LIABILITY COMPANY

DURATION DATE/LATEST DATE OF DISSOLUTION:

SECTION OF LAW: LIMITED LIABILITY COMPANY LAW - 203

ENTITY STATUS: ACTIVE

LIMITED LIABILITY COMPANY LAW - LIMITED LIABILITY COMPANY LAW

DATE OF INITIAL DOS FILING: 10/07/2022

REASON FOR STATUS:

EFFECTIVE DATE INITIAL FILING: 10/07/2022

INACTIVE DATE:

FOREIGN FORMATION DATE:

STATEMENT STATUS: CURRENT

COUNTY: CHEMUNG

NEXT STATEMENT DUE DATE: 10/31/2024

JURISDICTION: NEW YORK, UNITED STATES

NFP CATEGORY:

[ENTITY DISPLAY](#)[NAME HISTORY](#)[FILING HISTORY](#)[MERGER HISTORY](#)[ASSUMED NAME HISTORY](#)

Service of Process Name and Address

Name: MANISH PATEL

Address: 2750 WESTINGHOUSE ROAD, SUITE B, HORSEHEADS, NY, UNITED STATES, 14845

Chief Executive Officer's Name and Address

Name:

Address:

Principal Executive Office Address

Address:

Registered Agent Name and Address

Name:

Address:

Entity Primary Location Name and Address

Name:

Address:

Firmcorpflag

Is The Entity A Farm Corporation: NO

Stock Information

Share Value	Number Of Shares	Value Per Share