

OHB REDEV, LLC – DISTRICT EAST

**EMINENT DOMAIN PROCEDURE LAW RESOLUTION
(3101-22-06A)**

A regular meeting of the Onondaga County Industrial Development Agency (the “Agency”) was convened in public session on December 20, 2022, at 8:00 a.m., local time, at 335 Montgomery Street, 2nd Floor, Syracuse, New York.

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

PRESENT: Patrick Hogan
Janice Herzog
Steve Morgan
Susan Stanczyk
Fanny Villarreal

ABSENT: Kevin Ryan
Victor Ianno

ALSO PRESENT: Robert M. Petrovich, Executive Director
Jeffrey W. Davis, Esq., Agency Counsel
Mark R. McNamara, Esq., Agency Counsel

The following resolution was offered by Janice Herzog, seconded by Fanny Villarreal, to wit:

RESOLUTION OF THE ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING AGENCY TO TAKE ALL APPROPRIATE ACTIONS UNDER THE NEW YORK EMINENT DOMAIN PROCEDURE LAW FOR POTENTIAL ACQUISITION OF PROPERTY INTERESTS BY PURCHASE OR EMINENT DOMAIN FOR THE OHB REDEV, LLC – DISTRICT EAST PROJECT

WHEREAS, Onondaga County 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”), Chapter 435 of the Laws of 1970 of the State of New York and Chapter 676 of the Laws of 1975 of the State of New York, as amended, constituting Section 895 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 manufacturing, warehousing, research, commercial 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, 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, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire by eminent domain pursuant to the New York Eminent Domain Procedure Law (“EDPL”) or other means those real property interests necessary and/or appropriate to further its stated purposes; and

WHEREAS, the Agency has received an application from OHB Redev, LLC (the “Applicant”) seeking benefits in connection with the redevelopment of the former Shoppingtown Mall site located in the Town of Dewitt (the “Site”); and

WHEREAS, the Site is currently vacant but was previously used as an open-air shopping center until 1975, then used as an enclosed mall until it suffered a serious decline around 2010 and finally closed altogether in 2020; and

WHEREAS, at its peak, the Site contained five anchor department stores, 125 in-line stores, shops and other services totaling approximately 1,184,426 square feet of retail space, however, in its current condition the Site is a blighted eyesore; and

WHEREAS, the Site consists of six parcels encompassing approximately 68.67 acres of land; and

WHEREAS, pursuant to certain tax foreclosure proceedings Onondaga County (the “County”) previously acquired title to the parcels identified by: SBL #s 063.-01-02.1 (53.48 acres); 063.-01-02.2 (10.32 acres); and 063.-01-10.0 (.66 acres) (hereafter referred to collectively as the “County Parcels”); and

WHEREAS, the Applicant has entered into a contract with the County to obtain title to the County Parcels, and

WHEREAS, the Applicant is requesting that the Agency utilize its eminent domain authority to obtain title to the remaining three parcels that make up the Site, namely: 063.-01-02.3 (the former Macy’s - 1.67 acres), 063.-01-02.4 (the former Sears Dept. Store - 1.85) acres, and 063.-01-02.5 (the former Sears Auto Center - .69 acres) and all related property interests (hereafter referred to collectively as the “Eminent Domain Parcels”); and

WHEREAS, the respective owners of the Eminent Domain Parcels and the County Parcels are bound by a Reciprocal Easement Agreement (“REA”) that prevents, for all practical purposes, the redevelopment of the Site without first consolidating ownership; and

WHEREAS, the taking of the Eminent Domain Parcels by the Agency and the conveyance of title to those parcels to the Applicant would terminate the REA by merger, thus allowing for the redevelopment of the Site; and

WHEREAS, the Applicant intends to redevelop the Site by creating five distinct but blended districts that will be used for residential housing, entertainment, restaurants and hospitality, retail, and office/institutional uses; and this mixed-use approach will create natural and complementary synergies throughout the Site that will promote walkability, multiple levels of consumer and lifestyle engagement, beautiful park/landscaped areas and an overall positive guest and resident experience; and

WHEREAS, the potential public benefits created by the redevelopment of the Site will be significant in the form of new sidewalks, streets and parks, updated utilities, hundreds of construction jobs and permanent full-time positions (once the build-out is complete), estimated sales tax revenue in excess of \$19 million per year, new housing stock and the orderly development of a mixed-use hub, or village center, for the Town of Dewitt, which has been desired by the Town of Dewitt government for some time, as is stated clearly in their planning documents and the elimination of a blighted moribund long vacant shopping center through such redevelopment; and

WHEREAS, the Applicant has submitted a Full Environmental Assessment Form and supporting documents to the Agency that are currently being evaluated by the Agency's consultants; and

WHEREAS, representatives for the Applicant have contacted the record owners of the Eminent Domain Parcels and continue to negotiate with them in order to obtain title to those parcels without the use of eminent domain, however, such negotiations, to date, have been unsuccessful.

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

Section 1. The Agency's Executive Director and staff, and the Agency's legal counsel, Barclay Damon LLP, are hereby authorized and directed:

- a. To do such things or perform such acts and execute such documents as are necessary and/or appropriate to duly notice and conduct a public hearing as provided for under EDPL Article 2, including, but not limited to, retaining any professionals, consultants and contractors necessary to provide materials required under the EDPL in connection with a public hearing and the possible acquisition of the Eminent Domain Parcels; and
- b. To take all actions under EDPL Section 404 to allow for and facilitate Agency officers, agents, and contractors to enter upon the Eminent Domain Parcels for the purpose of making surveys, test pits and borings, or other investigations, and also for temporary occupancy during construction.

Section 2. A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

Section 3. 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:

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Patrick Hogan	X		
Janice Herzog	X		
Victor Ianno			X
Steve Morgan	X		
Susan Stanczyk	X		
Kevin Ryan			X
Fanny Villarreal	X		

The Resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) ss.:
COUNTY OF ONONDAGA)

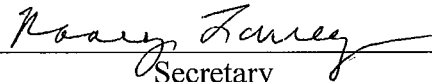
I, the undersigned Secretary of the Onondaga County Industrial Development Agency, DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on December 20, 2022, with the original thereof on file in my office, and that the same is a true and correct copy of such proceedings of the Agency and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matter 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"), as modified by New York State Executive Order 202.79, 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 this 21 day of December, 2022.

(SEAL)



Secretary