

QP2 PROPERTIES, LLC
APPROVING RESOLUTION
(3101-23-03A)

A regular meeting of the Onondaga County Industrial Development Agency was convened in public session on August 10, 2023, at 8:30 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
Susan Stanczyk
Kevin Ryan
Fanny Villarreal
Cydney Johnson

ABSENT: Elizabeth Dreyfuss

ALSO PRESENT: Robert M. Petrovich, Executive Director
Jeffrey W. Davis, Esq., Agency Counsel
Amanda M. Fitzgerald, Esq., Agency Counsel

The following resolution was offered by Susan Stanczyk, seconded by Janice Herzog, to wit:

**RESOLUTION APPROVING A PROJECT AND AUTHORIZING
EXECUTION OF DOCUMENTS IN CONNECTION WITH A
LEASE/LEASEBACK TRANSACTION FOR QP2 PROPERTIES,
LLC**

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”) and Chapter 435 of the Laws of 1970 of the State of New York and Chapter 676 of the Laws of 1975, 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 (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, 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, QP2 Properties, LLC, a New York limited liability company on behalf of itself and/or entities formed or to be formed on its behalf (the “Company”), has submitted an application (the “Application”), a copy of which Application is on file at the office of the Agency, which Application requests that the Agency consider undertaking a project (the “Project”) for the benefit of the Company and/or entities formed or to be formed on its behalf, said Project consisting of the following: (A)(1) the acquisition of a leasehold interest in all or a portion of approximately 14.95 acres of land located on Henry Clay Boulevard (tax map no. 045.-01-02.1) in the Town of Clay, Onondaga County, New York (the “Land”); (2) the construction on the Land of (i) two three-story residential apartment buildings totaling approximately 125,106 square feet, consisting of approximately 96 apartments and various tenant amenities, (ii) six garages containing interior parking spaces and surface parking spaces and (iii) three commercial buildings totaling approximately 33,200 square feet of commercial rental space with additional surface parking spaces, (collectively, the “Facility”); and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the “Equipment”) (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 estate transfer taxes and mortgage recording taxes (subject to certain statutory limitations) (the “Financial Assistance”); and (C) 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, the members of the Agency adopted a resolution on July 20, 2023 (the “Public Hearing Resolution”) authorizing a public hearing with respect to the Project in compliance with the provisions of Section 859-a of the Act; and

WHEREAS, in accordance with the requirements of Section 859-a of the Act, pursuant to the authorization contained in the Public Hearing Resolution, the Executive Director of the Agency (A) caused written notice of a public hearing of the Agency (the “Public Hearing”) to hear all persons interested in the Project and the Financial Assistance being contemplated by the Agency with respect to the Project and a copy of the Public Hearing Resolution to be delivered by certified mail, return receipt requested, on July 26, 2023 to the chief executive officer of each affected local taxing jurisdiction, including the school board and district superintendent of the North Syracuse Central School District, and (B) caused notice of the Public Hearing to be published on July 27, 2023 in The Post-Standard, a newspaper of general circulation available to the residents of the Town of Clay, Onondaga County, New York, (C) conducted the Public Hearing on August 8, 2023 at 9:30 a.m., local time at the Clay Town Hall, 4401 Route 31, Clay, New York, and (D) prepared a report of the Public Hearing (the “Public Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “SEQRA”), by resolution adopted by the members of the Agency on August 10, 2023, the Agency (a) classified the Project as an “Unlisted” action eligible for uncoordinated review; and (b) reaffirmed, accepted, and adopted the April 18, 2022 negative declaration that was issued by the lead agency Town Board of the Town of Clay in its prior coordinated review of the Project, which after conducting a thorough review of the Project and its potential effects determined that the Project will not have a significant adverse effect on the environment; and

WHEREAS, the Agency has given due consideration to the Application, and to representations by the Company that (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Company to undertake the Project in Onondaga County, New York and (B) the completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York; and

WHEREAS, the Agency desires to encourage the Company to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of Onondaga County, New York by undertaking the Project in Onondaga County, New York; and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance described in the notice of the Public Hearing, the Agency proposes to enter into the following documents (hereinafter collectively referred to as the “Agency Documents”): (A) a certain underlying lease agreement (and a memorandum thereof) (the “Underlying Lease”) by and between the Company and the Agency pursuant to which the Company will lease to the Agency the Land and all improvements now or hereafter located on the Land; (B) a certain lease agreement (and a memorandum thereof) (the “Lease Agreement”) by and between the Company and the Agency pursuant to which the Company agrees to undertake the Project as agent of the Agency and the Company further agrees to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency’s administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project; (C) a project agreement (the “Project Agreement”) by and between the Agency and the Operating Company that complies with the requirements of Section 859-a(6) of the Act; (D) one or more New York State Department of Taxation and Finance forms entitled “IDA Appointment of Project Operator or Agency for Sales Tax Purposes” (the form required to be filed pursuant to Section 874(9) of the Act) (collectively, the “Thirty-Day Sales Tax Reports”) and any additional report to the Commissioner of the State Department of Taxation and Finance concerning the amount of sales and use tax exemption benefits for the Project (the “Additional Thirty-Day Project Report”); (E) if the Company intends to finance the Project with borrowed money, one or more mortgages, assignments of leases and rents and such other loan documents satisfactory to the Agency, upon advice of counsel, in both form and substance (collectively, the “Mortgage”), as may be reasonably required by a lender or lenders yet to be determined (collectively, the “Lender”), which Mortgage will grant a lien on and security interest in the Project Facility to secure a loan or loans from the Lender to the Company with respect to the

financing, refinancing or permanent financing of the costs of acquiring, constructing, installing and equipping of the Project Facility; and (F) various certificates relating to the Project; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement, the Company will execute and deliver to the Agency one or more bills of sale to the Agency pursuant to which the Company will sell to the Agency the Facility Equipment, and the Company will execute and deliver to the Agency one or more bills of sale to the Agency pursuant to which the Company will sell to the Agency the Equipment; and

WHEREAS, simultaneously with the execution and delivery of the Agency Documents, the Agency will file with the State Department of Taxation and Finance one or more Thirty-Day Sales Tax Reports and provide a copy of the Thirty-Day Sales Tax Reports to the Company; and

WHEREAS, for purposes of exemption from the State sales and use taxation as part of the Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight; and

WHEREAS, pursuant to the Act, the Agency desires to adopt a resolution approving the Project and the grant by the Agency of the Financial Assistance to the Company with respect to the Project.

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

Section 1. The Agency, based upon the representations made by the Company to the Agency in the Application, hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act;

(B) The Project constitutes a "project," as such term is defined in the Act;

(C) The Project site is located entirely within the boundaries of Onondaga County, New York;

(D) It is estimated at the present time that the costs of the planning, development, construction and installation of the Project Facility will be approximately \$27,736,203.00;

(E) The completion of the Project Facility will not result in the removal of a plant or facility of the Company or an occupant of the Project Facility from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Company or an occupant of the Project Facility located in the State;

(F) The Project does not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project, and accordingly the Project is not prohibited by the provisions of Section 862(2)(a) of the Act, and (2) accordingly the Agency is authorized to provide financial assistance in respect of the Project pursuant to Section 862(2)(a) of the Act;

(G) The acquisition, construction, installation and equipping of the Project Facility and the leasing of the Project Facility to the Company and the acquisition and installation of the Equipment and the leasing of the Equipment to the Company is reasonably necessary to induce the Company to construct the Project in the State;

(H) Based upon representations of the Company and their counsel, the Project Facility conforms with, or prior to the Agency entering into the Agency Documents, will conform with, the local zoning laws and planning regulations of Onondaga County and all regional and local land use plans for the area in which the Project Facility is located;

(I) The granting of the Financial Assistance by the Agency with respect to the Project will promote the job opportunities, general prosperity and economic welfare of the citizens of Onondaga County, New York and the State and improve their standard of living, and thereby serve the public purposes of the Act;

(J) The Agency has reviewed the Public Hearing Report and has fully considered all comments contained therein;

(K) The Project should receive the Financial Assistance in the form of exemptions from certain sales and use taxes, real estate transfer taxes and mortgage recording taxes (subject to statutory limitations) based on the description of expected public benefits to occur as a result of this Project, as described in the Application, and failure by the Company to meet the expected public benefits will result in a recapture event, as described in the Project Agreement;

(L) It is desirable and in the public interest for the Agency to enter into the Agency Documents;

(M) The Agency has assessed all material information included in connection with the Application necessary to afford a reasonable basis for the decision by the Agency to provide the Financial Assistance for the Project as described herein;

(N) The Agency has prepared a written cost-benefit analysis identifying the extent to which the Project will create or retain permanent, private sector jobs, the estimated value of any tax exemption to be provided, the amount of private sector investment generated or likely to be generated by the Project, the likelihood of accomplishing the Project in a timely fashion, and the extent to which the Project will provide additional sources of revenue for municipalities and school districts, and any other public benefits that might occur as a result of the Project; and

(O) The Company has provided a written statement confirming that the Project as of the date of the Application is in substantial compliance with all provisions of the Act.

Section 2. In consequence of the foregoing, the Agency hereby determines to: (A) proceed with the Project; (B) acquire a leasehold interest in the Land and all improvements now or hereafter located on the Land from the Company pursuant to the Underlying Lease; (C) acquire the Equipment pursuant to a bill of sale from the Company; (D) lease the Project Facility to the Company pursuant to the Lease Agreement; (E) acquire, construct and equip the Project Facility, or cause the Project Facility to be acquired, constructed and equipped, as provided in the Lease Agreement; (F) secure any loan the proceeds of which will be used to finance or refinance the costs of the acquisition, construction and equipping of the Project Facility by granting a mortgage lien on the Agency's interest in the Project Facility and entering into one or more mortgages and/or assignments of leases and rents in favor of the Lender; and (G) grant to the Company the Financial Assistance with respect to the Project.

Section 3. Notwithstanding anything herein to the contrary, the amount of State and local sales and use tax exemption benefit comprising the Financial Assistance approved herein shall not exceed **\$1,347,857.00** and shall last no longer than two years from the execution and delivery of the Agency Documents. The Agency may consider any requests by the Company for increases to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services.

Section 4. Notwithstanding anything herein to the contrary, the amount of mortgage recording tax exemption benefit comprising the Financial Assistance approved herein shall not exceed **\$166,418.00**.

Section 5. The Agency is hereby authorized to acquire, construct and equip the Project Facility as described in the Agency Documents, to appoint the Company as an agent of the Agency to undertake such acquisition, construction and equipping of the Project Facility as described in the Agency Documents, and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition, construction and equipping are hereby ratified, confirmed and approved.

Section 6. The Chairman (or Vice Chairman) and the Executive Director of the Agency, with the assistance of Agency Counsel, are each authorized to negotiate and approve the form and substance of the Agency Documents.

Section 7. (A) The Chairman (or Vice Chairman) and the Executive Director of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Agency Documents, 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 the forms thereof as the Chairman (or Vice Chairman) or the Executive Director shall approve, the execution thereof by the Chairman (or Vice Chairman) or the Executive Director to constitute conclusive evidence of such approval.

(B) The Chairman (or Vice Chairman) and the Executive Director of the Agency are each hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 8. The Agency shall maintain records of the amount of State and local sales and use tax exemption benefits provided to the Project and each agent or Project operator and shall make such records available to the State Commissioner of Taxation and Finance (the "Commissioner") upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company's receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause its agents and/or operators to make, all records and information regarding State and local sales and use tax exemption benefits available to the Agency upon request. The provisions of Section 875 of the Act are hereby incorporated herein as if set forth herein and the Agency agrees that it shall comply with the requirements of such Section 875 of the Act.

Section 9. The Agency hereby delegates to the Company, as an agent of the Agency, the authority to designate (following the execution and delivery of the Agency Documents), agents and sub-agents of the Agency (each, a "Sub-Agent") for purposes of utilizing the Agency sales and use tax exemption with respect to the acquisition, construction, installation and equipping of the Project Facility; provided that any such sub-agency designation shall become effective only upon submission to the Agency within fifteen (15) days of such agency and sub-agency designation: (1) an executed sub-agent appointment agreement (in a form approved by the Agency) and (2) a completed Form ST-60 of the State Department of Taxation and Finance (IDA Appointment of Project Operator or Agent for Sales Tax Purposes). Such agents and sub-agents may include contractors and subcontractors involved in the acquisition, construction, installation and equipping of the Project Facility.

Section 10. The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Company and/or any Sub-Agent shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from State and local sales and use tax exemptions benefits.

Section 11. As a condition precedent to the granting of the Financial Assistance, the Company agrees to execute an agreement with the Agency setting forth the preliminary undertakings of the Agency and the Company with respect to the Project. The form and substance of the proposed agreement, a form of which was available to the members of the Agency (the "Agreement"), are hereby approved. The Chairman (or Vice Chairman) and the Executive Director of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, in substantially the same form as presented at this meeting with changes in terms and form as shall be consistent with this Resolution and as the Executive Director or (Vice) Chairman shall approve. The execution thereof by the Executive Director or (Vice) Chairman shall constitute conclusive evidence of such approval.

Section 12. 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 Agency Documents, 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 Agency Documents binding upon the Agency.

Section 13. This Resolution shall take effect immediately upon adoption.

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>	<u>ABSTAINED</u>
Patrick Hogan	X			
Janice Herzog	X			
Cydney Johnson	X			
Elizabeth Dreyfuss			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)

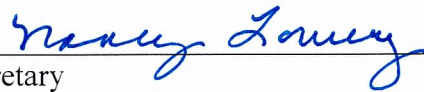
I, the undersigned Secretary of the Onondaga County Industrial Development Agency, DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on August 10, 2023, with the original thereof on 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"), 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 28 day of August, 2023.

(SEAL)


Secretary