

**TC SYRACUSE DEVELOPMENT ASSOCIATES, LLC**

**INTERIM SALES TAX EXEMPTION  
(3101-19-10A)**

At a regular meeting of the Onondaga County Industrial Development Agency (the “Agency”) convened in public session on April 14, 2020, remotely by conference call or similar service pursuant to the New York State Executive Order 202.1, the following members were:

**PRESENT:** Patrick Hogan  
Janice Herzog  
Steve Morgan  
Susan Stanczyk  
Victor Ianno  
Kevin Ryan  
Fanny Villarreal

**ABSENT:**

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

The following resolution was offered by Victor Ianno, seconded by Susan Stanczyk, to wit:

**RESOLUTION APPROVING THE EXECUTION AND DELIVERY OF A PRELIMINARY PROJECT AGREEMENT WITH REGARD TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A CERTAIN FACILITY FOR TC SYRACUSE DEVELOPMENT ASSOCIATES, LLC 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”) 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, by resolution dated October 31, 2019, the Agency approved undertaking a project (the “Project”) on behalf of TC Syracuse Development Associates, LLC, a Delaware limited liability company (the “Company”) and entities formed or to be formed on its behalf, consisting of the following: (A)(1) the acquisition of a leasehold interest in an approximately 110 acre parcel of land located at 7211 and 7219 Morgan Road (tax map no. 114.-01-02.3) in the Town of Clay, Onondaga County, New York (the “Land”); (2) the construction of an approximately 3.7 million square foot, approximately five-story building for use as a warehouse and distribution facility (the “Facility”); and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (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 property 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, in order to begin the construction of the Project Facility and the acquisition of Equipment prior to the execution and delivery of final documents and agreements in connection with the Project, the Company has requested the temporary appointment of the Company as agent of the Agency for sales and use tax purposes; and

WHEREAS, in connection with the temporary appointment of the Company as agent of the Agency for sales and use tax purposes, the Agency and the Company will enter into a preliminary project agreement and certain related documents (the “Interim Documents”) with respect to the Project; and

WHEREAS, in connection with the temporary appointment of the Company as agent of the Agency for sales and use tax purposes, the Company has agreed to pay a portion of the Agency’s fee in the amount of \$500,000.00 with respect to the Project; and

WHEREAS, simultaneously with the execution of the Interim Documents, the Agency will file 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 Form”); and

WHEREAS, for purposes of exemption from New York 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 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 (the

“Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQRA Act, “SEQRA”), the Agency must determine the potential environmental significance of the of the appointment of the Company as temporary agent of the Agency for sales and use tax purposes and the execution of the Interim Documents (the “Transaction”);

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

Section 1. Pursuant to SEQRA, the Agency hereby finds and determines that:

(A) Pursuant to Section 617.5(c)(23) of the Regulations, the Transaction is a “Type II action” (as said quoted term is defined in the Regulations); and

(B) Therefore, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under the Regulations with respect to the Transaction.

Section 2. Subject to the due execution and delivery by the Company of the Interim Documents, the satisfaction of the conditions of this Resolution and the Interim Documents, the Company is temporarily appointed the true and lawful agent of the Agency to proceed with the acquisition, construction, installation and equipping of the Project Facility, all with the same powers and the same validity as if the Agency were acting in its own behalf.

Section 3. For purposes of providing the terms and conditions pursuant to which the Company will receive the benefit of certain State and local sales and use tax exemptions in connection with the Project, the Interim Documents in such form as the Chairman (or Vice Chairman) or Executive Director of the Agency shall (with the advice of Agency counsel) deem advisable, be, and the same are, hereby approved; and the Chairman, Vice Chairman and Executive Director of the Agency are each hereby authorized and directed to execute, acknowledge and deliver the Interim Documents in the name of the Agency. The execution and delivery of the Interim Documents shall be conclusive evidence of due authorization and approval of the Interim Documents in their respective final form. The Chairman, Vice Chairman or Executive Director of the Agency shall determine the date of expiration of the Company’s appointment as temporary agent of the Agency; provided, however, that such expiration date shall be not later than June 30, 2020 unless either (a) the Agency and the Company have entered into a “straight-lease” transaction (as defined in the Act) prior to such date; or (b) the Agency has agreed to an extension of such expiration date.

Section 4. (a) The Agency hereby delegates to the Company, as agent of the Agency, the authority to designate (following the execution and delivery of the Interim 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 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 New York 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 Facility.

(b) Payment by the Company of a portion of the Agency's administrative fee in the amount of \$500,000 with respect to the Project.

Section 5. 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.

Section 6. 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 Interim 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 Interim Documents binding upon the Agency.

Section 7. The Interim Documents shall be deemed the obligations of the Agency, and not of any member, officer, agent or employee of the Agency in his/her individual capacity, and the members, officers, agents and employees of the Agency shall not be personally liable thereon or be subject to any personal liability or accountability based upon or in respect hereof or of any transaction contemplated hereby. The Interim Documents shall not constitute or give rise to an obligation of the State of New York or the County of Onondaga, New York and neither the State of New York nor the County of Onondaga, New York shall be liable thereon, and further, such agreement shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency.

Section 8. The Executive Director is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 9. This Resolution shall take effect immediately.

STATE OF NEW YORK )

COUNTY OF ONONDAGA ) ss.:  
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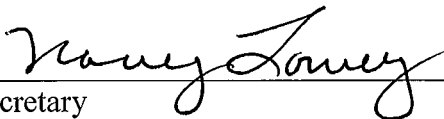
I, the undersigned Secretary of the Onondaga County Industrial Development Agency, DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on April 14, 2020, with the original thereof on 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 202.1, 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 14<sup>th</sup> day of April, 2020.

(SEAL)

  
Secretary