

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Adopted September 14, 2021

*Introduced by Mike Fitzgerald
who moved its adoption.*

Seconded by Todd Rulison

**RESOLUTION TO SCHEDULE A SECOND PUBLIC HEARING RELATING TO THE
HDC2 COMPANY LLC PROJECT**

WHEREAS, HDC2 Company, LLC, a limited liability company organized in the State of New York, and its permitted assigns (the "Company"), has submitted an application (the "Application") to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") for the benefit of the Company consisting of: (i) the acquisition of an interest in a certain parcel or parcels of real property located at 342 South Kingsboro Avenue, City of Gloversville and Town of Johnstown, County of Fulton, State of New York (the "Land") and being referred to as tax map parcel number 149.18-6-1 and 149.-1-56, respectively; (ii) the construction of a 6,400 square foot building and state of the art car wash facility that will include a 160 foot conveyORIZED tunnel, automated blowers with 2 million BTU heating drying (collectively referred to as the "Facility"); and (iii) the acquisition and installation therein of certain furnishing and fixtures (the "Equipment" and together with the Land and the Facility, collectively (the "Project Facility") to be used in connection with the contemplated uses; and (iv) the lease of the Project Facility back to the Company, and (v) the providing of financial assistance to the Company for qualifying portions of the project in the form of sales and use tax exemptions, a mortgage recording tax exemption, and a partial real property tax abatement consistent with the policies of the Agency, all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York and Section 895-c of the General Municipal Law (collectively, the "Act"); and

WHEREAS, Chapters 356 and 357 of the Laws of 1993 require that prior to granting financial assistance of more than \$100,000.00 to any project, an IDA must (a) adopt a resolution describing the project and the financial assistance contemplated by the IDA with respect thereto, and (b) hold a public hearing in the city, town or village where the project proposes to locate upon at least ten (10) days published notice and, at the same time, provide notice of such hearing to the Chief Executive Officer of each affected taxing jurisdiction within which the project is located; and

WHEREAS, on August 10, 2021, after a duly scheduled and convened public hearing held on July 27, 2021 at 10:00am in the City of Gloversville, the Agency approved financial assistance for the proposed Project, which may include: a sales and use tax abatement during the construction of the Facility, a mortgage recording tax exemption and a partial real property tax abatement, all of which shall be consistent with the uniform tax exemption policy of the Agency; and

WHEREAS, following the initial public hearing, it was brought to the attention of the Agency that a portion of the Project will be located in the Town of Johnstown; and

WHEREAS, to comply with the provisions of General Municipal Law, the Town of Johnstown must be properly notified of the Project and a public hearing held in the municipality.

NOW, THEREFORE, BE IT RESOLVED:

1. The Company has presented an Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's Application, the Agency here finds and determines that:

- (a) Pursuant to 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; and
- (b) The Agency has the authority to take the actions contemplated herein under the Act; and
- (c) The action to be taken by the Agency will the Company to develop the Project, thereby maintaining and increasing employment opportunities in Fulton County, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and
- (d) The Project will not result in the removal of a commercial, industrial or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company.

2. The proposed financial assistance being contemplated by the Agency includes (i) an exemption from all state and local sales and use taxes with respect to the qualifying personal property included within the Project or used in the acquisition, construction or equipping of the Project in the estimated amount of \$296,000.00; (ii) a mortgage recording tax exemption on qualifying mortgages in the estimated amount of \$60,000.00; and (iii) a partial real property tax abatement through a PILOT Agreement estimated to be approximately \$121,910.00, based on an estimated base value of \$19,000.00, pursuant to which the Company would make payments in lieu of real property taxes to the Affected Taxing Jurisdictions.

3. The Chairman, Vice Chairman and/or the Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to cause the issuance of public hearing notices, hold a public hearing in compliance with the Act and negotiate (but not execute or deliver) the terms of (A) the Agent Agreement and Project Agreement, whereby the Agency appoints the Company as its agent to undertake the Project, (B) a Lease Agreement whereby the Company leases the Project to the Agency, (C) a related Leaseback Agreement conveying the Project back to the Company, (D) a PILOT Agreement, whereby the Company agrees to make certain payments-in-lieu-of real property taxes and (E) related documents; provided (i) the rental payments under the Agent Agreement and Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project.

4. The Agency hereby schedules a second and subsequent public hearing pursuant to Article 18-A of the New York State General Municipal Law (the "Law") to be held by the Agency on October 5, 2021, at 10:00 am, local time, at the office of the Town Hall of the Town of Johnstown, 2753 Ny Route 29, Johnstown, New York 12095, in connection with the proposed Project.

5. The Agency hereby authorizes the publication of a Notice of Public Hearing for the proposed Project and in accordance with the Law and the Agency's policies and procedures.

6. This resolution shall take effect immediately.

AYES: 4
NAYS: 1
ABSENT: 0
ABSTAIN: 1 (Dave D'Amore)

I, James E. Mraz, Executive Director of the Fulton County Industrial Development Agency, hereby certify that I have compared the foregoing resolution with the original resolution, adopted by the Fulton County Industrial Development Agency, at a duly called and held meeting of said Agency on the 14th day of September, 2021, and the same is a true and correct transcript there from and the whole thereof.

Witness my hand and official seal
this 14th day of September, 2021


James E. Mraz, Executive Director