

BLUEFORS CRYOCOOLER TECHNOLOGIES INC.

**RESOLUTION AUTHORIZING AN EXTENSION OF
SALES AND USE TAX EXEMPTION
(3101-22-08A)**

A regular meeting of the Onondaga County Industrial Development Agency (the "Agency") convened in public session on November 9, 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) Chairperson of the Agency and, upon roll being called, the following members of the Agency were:

PRESENT: Patrick Hogan
Janice Herzog
Kevin Ryan
Fanny Villarreal
Elizabeth Dreyfuss

ABSENT: Susan Stanczyk
Cydney Johnson

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 Janice Herzog, seconded by Kevin Ryan, to wit:

**RESOLUTION AUTHORIZING AN EXTENSION OF THE
PRELIMINARY SALES AND USE TAX EXEMPTION IN CONNECTION
WITH A CERTAIN PROJECT FOR BLUEFORS CRYOCOOLER
TECHNOLOGIES INC.**

WHEREAS, 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, pursuant to a resolution adopted by the members of the Agency on June 19, 2019, the Agency undertook a project (the “2019 Project”) on behalf of Quantum Cool, LLC (the “Initial Real Estate Holding Company”) and Cryomech, Inc. (the “Original Company”) consisting of the following: (A) (1) the acquisition of an interest in an approximately 14-acre portion of land located at 6682 Moore Road (formerly part of tax map no. 022.-05-03.1, now tax map no. 022.-05-19.0) in the Town of DeWitt, Onondaga County, New York (the “2019 Land”); (2) the construction on the 2019 Land of an approximately 76,000 square foot building (the “2019 Facility”); (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the “2019 Facility Equipment”) (the 2019 Land, the 2019 Facility and the 2019 Facility Equipment being collectively referred to as the “2019 Company Project Facility”); and (4) the acquisition and installation of certain equipment and personal property (the “2019 Equipment”, and together with the 2019 Company Project Facility, the “2019 Project Facility”) by the Initial Real Estate Holding Company, such 2019 Project Facility to be used by the Original Company as a manufacturing plant for high-performance cryogenic equipment and related office space; (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 and transfer and mortgage recording taxes (subject to certain statutory limitations) (collectively, the “2019 Financial Assistance”); and (C) (1) the lease (with an obligation to purchase) or sale of the 2019 Company Project Facility to the Initial Real Estate Holding Company or such other person as may be designated by the Initial Real Estate Holding Company and agreed upon by the Agency; and (2) and the lease (with an obligation to purchase) or sale of the 2019 Equipment to the Original Company or such other person as may be designated by the Original Company and agreed upon by the Agency; and

WHEREAS, in connection with the 2019 Project, the Agency and the Initial Real Estate Holding Company entered into (A) an underlying lease (and a memorandum thereof) dated as of September 1, 2019 by and between the Agency and the Initial Real Estate Holding Company (the “2019 Underlying Lease”); (B) a lease agreement (and a memorandum thereof) dated as of September 1, 2019 by and between the Agency and the Initial Real Estate Holding Company (the “2019 Lease Agreement”); (C) a payment in lieu of tax agreement dated as of September 1, 2019 by and between the Agency and the Initial Real Estate Holding Company (the “2019 PILOT Agreement”); (D) a company project agreement dated as of September 1, 2019 by and between the Agency and the Initial Real Estate Holding Company, as amended by an Amendment to the Company Project Agreement dated as of August 1, 2020 by and between the Agency and the Initial Real Estate Holding Company (collectively, the “2019 Project Agreement”); and (E) various certificates relating to the 2019 Project (the “2019 Certificates” and collectively with the 2019 Underlying Lease, the 2019 Lease Agreement, the 2019 PILOT Agreement, and the 2019 Project Agreement, the “2019 Documents”); and

WHEREAS, on or about March 24, 2022, the Initial Real Estate Holding Company sold all of its right, title and interest in and to the 2019 Company Project Facility to the Original

Company and in connection therewith the Initial Real Estate Holding Company assigned to the Original Company and the Original Company assumed from the Initial Real Estate Holding Company the obligations of the Initial Real Estate Holding Company under the 2019 Documents pursuant to an Omnibus Assignment and Assumption Agreement made as of March 24, 2022 by and between the Initial Real Estate Holding Company and the Original Company, as consented to by the Agency; and

WHEREAS, pursuant to a resolution adopted by the members of the Agency on December 20, 2022 (the "Approving Resolution"), the Agency agreed to undertake a new project (the "Project") for the benefit of the Original Company and/or entities formed or to be formed on its behalf, said Project consisting of the following: (A)(1) the retention of the Agency's interest in the 2019 Land and the acquisition of an interest in approximately 12.5 acres of land located at 6655 Old Thompson Road and 6684 Moore Road (parts of tax map nos. 022.-05-03.1 and 022.-05-02.3), all in the Town of Dewitt, Onondaga County, New York (all of the foregoing collectively, the "Land") and the retention of the Agency's interest in the 2019 Project Facility; (2) the construction on the Land of approximately 34,000 square feet of additions to the 2019 Facility and related exterior improvements, including but not limited to additional parking and stormwater improvements (the "2023 Improvements" and together with the 2019 Facility, 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, the 2019 Facility Equipment, the 2019 Equipment and the Equipment being collectively referred to as the "Project Facility"), which Project Facility is to be used by the Original Company as a manufacturing plant for high-performance cryogenic equipment and related office space; (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 Original Company or such other person as may be designated by the Original Company and agreed upon by the Agency; and

WHEREAS, pursuant to the Approving Resolution, the Agency conferred on the Original Company in connection with the Project certain financial assistance including an exemption from New York State and local sales and use taxes for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Project Facility or used in the acquisition, construction or equipping of the Project Facility (the "Sales Tax Exemption"); 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 Agency appointed the Original Company as temporary agent of the Agency for sales and use tax purposes pursuant to a Project and Preliminary Sales Tax Exemption Agreement dated as of February 2, 2023 (the "Preliminary Project Agreement"); and

WHEREAS, on or about March 24, 2023, the Original Company sold all of its right, title and interest in and to the Project Facility to Bluefors Cryocooler Technologies Inc. (the "Company") and in connection therewith the Original Company assigned to the Company and the Company assumed from the Original Company the obligations of the Original Company under the

2019 Documents pursuant to an omnibus assignment and assumption agreement made as of March 24, 2023 by and between the Original Company and the Company and the Original Company assigned to the Company and the Company assumed from the Original Company the obligations of the Original Company under the Preliminary Project Agreement pursuant to an assignment and assumption of project and preliminary sales tax exemption agreement made as of March 24, 2023 by and between the Original Company and the Company, as consented to by the Agency; and

WHEREAS, in connection with the Project, the Agency granted Financial Assistance in the form of an exemption from sales and use taxes in the maximum amount of not to exceed \$637,934 through June 30, 2023 (the "Preliminary Exemption Expiration Date"); and

WHEREAS, pursuant to a resolution duly adopted by the Agency on June 8, 2023, the Agency approved the extension of the Preliminary Exemption Expiration Date to November 30, 2023 (the "First Extension") due to the Preliminary Exemption Expiration Date being set earlier than expected to ensure the Company would provide the board adequate updates on the Project status; and

WHEREAS, in connection with the First Extension, the Company and the Agency entered into an amendment to the Preliminary Project Agreement dated as of June 29, 2023 (the "First Amendment"), and the Agency filed with the New York State Department of Tax and Finance one or more forms entitled "IDA Appointment of Project Operator or Agent for Sales Tax Purposes ("Form ST-60"); and

WHEREAS, the Agency and the Company have not closed on the straight-lease transaction associated with the Project and approved by the Agency in the Approving Resolution; and

WHEREAS, pursuant to correspondence dated October 27, 2023, the Company has requested that the Agency extend the First Extension of the Preliminary Exemption Expiration Date to January 31, 2024 (the "Second Extension") due to a delay in obtaining a survey required by the Town of DeWitt for subdivision approval, which has delayed the Company's real estate purchase of a portion of the Land, and confirmed that the Company will be ready to close on the Project with the Agency by January of 2024; and

WHEREAS, in connection with the Second Extension, the Company and the Agency will enter into a second amendment to the Preliminary Project Agreement (the "Second Amendment") and the Agency will file one or more Form ST-60 with the New York State Department of Tax and Finance; 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 SEQR Act, "SEQRA"), the Agency must determine the potential environmental significance of the Second Extension and the execution and delivery of the Second Amendment and related documents (collectively, the "Transaction").

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

Section 1. Pursuant to SEQRA, the Agency hereby finds and determines that the Transaction does not constitute a significant change from the original Project that was reviewed under the SEQRA Resolution and therefore no further or additional review under SEQRA is required.

Section 2. The Agency, based upon representations made by the Company to the Agency, 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) The granting of the Second Extension of the appointment of the Company as temporary agent of the Agency for State and local sales and use tax purposes until January 31, 2024 will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Onondaga County, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act.

Section 3. In consequence of the foregoing, the Agency hereby determines to extend the appointment of the Company as temporary agent of the Agency for sales and use tax purposes until January 31, 2024.

Section 4. The Agency is hereby authorized to do all things necessary or appropriate for the granting of the Second Extension, and all acts heretofore taken by the Agency with respect thereto are hereby approved, ratified and confirmed.

Section 5. The Agency is hereby authorized to execute and deliver the Second Amendment and such other documents as may be necessary to effectuate the grant of the Second Extension (collectively, the “Sales Tax Documents”) and execute and file the Form ST-60. The Chairperson, Vice Chairperson and/or 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 Sales Tax Documents required in connection with the grant of the Second Extension.

Section 6. (A) The Chairperson, Vice Chairperson and/or the Executive Director of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Sales Tax Documents and the Form ST-60, 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 Chairperson, Vice Chairperson and/or the Executive Director shall

approve, the execution thereof by the Chairperson, Vice Chairperson and/or the Executive Director to constitute conclusive evidence of such approval.

(B) The Chairperson, Vice Chairperson and/or 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.

Section 7. 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 Sales Tax 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 Sales Tax Documents binding upon the Agency.

Section 8. The Chairperson, Vice Chairperson and/or the Executive Director of the Agency are each 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.

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			
Cydney Johnson			X
Elizabeth Dreyfuss			
Susan Stanczyk			X
Kevin Ryan	X		
Fanny Villarreal	X		

The Resolution was thereupon declared duly adopted.

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

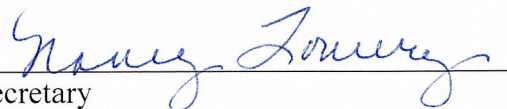
I, the undersigned Secretary of the Onondaga County Industrial Development Agency, DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on November 9, 2023, with the original thereof on 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 9 day of November, 2023.

(SEAL)


Secretary