

RESOLUTION

(O-AT-KA Milk Products Cooperative, Inc. Project)

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on August 13, 2015, at 1:00 p.m.

The following resolution was duly offered and seconded, to wit:

Resolution No. 08/2015-01

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACCEPTING THE APPLICATION OF O-AT-KA MILK PRODUCTS COOPERATIVE, INC. WITH RESPECT TO A CERTAIN PROJECT (DESCRIBED BELOW), (ii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT AND (iii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "State"), as amended, and Chapter 565 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **O-AT-KA MILK PRODUCTS COOPERATIVE, INC.**, for itself or on behalf of an entity formed or to be formed (the "Company"), has requested the Agency's assistance with a certain project (the "Project") consisting of: (A) the acquisition by the Agency of a leasehold interest in a parcel (or parcels) of land located at 165 Cedar Street aka 4815 Ellicott Street Road, in the Town and City of Batavia, Genesee County, New York (the "Land") and the existing improvements located thereon consisting principally of the Company's existing plant/warehouse structure (the "Existing Improvements"); (B) the construction and equipping on the Land by the Company as agent of the Agency of (1) two buildings containing in the aggregate approximately 205,000 square feet of space to be located adjacent to and contiguous with the existing plant/warehouse structure (of which space approximately 35,000 square feet will be located within the City of Batavia and 170,000 square feet of which will be located within the Town of Batavia), and (2) a new warehousing/traffic office structure ((1) and (2) being hereinafter collectively referred to as the "Improvements") to facilitate, among other things, local growth of the Company, improve the safety environment and enhance the Company's ability to compete in the domestic and international markets; and (C) the acquisition by the Company in and around the Existing Improvements and Improvements of certain items of

machinery, equipment and other tangible personal property (the "Equipment", and collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, pursuant to Article 18-A of the General Municipal Law the Agency desires to adopt a resolution describing the Project and the Financial Assistance (defined below) that the Agency is contemplating with respect to the Project and authorizing a public hearing; and

WHEREAS, it is contemplated that the Agency will hold a public hearing and, (i) negotiate an agent agreement (the "Agent Agreement"), pursuant to which the Agency will designate the Company as its agent for the purpose of undertaking the Project (the "Agent Agreement"), (ii) negotiate a lease agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement") and tax agreement (the "Tax Agreement") with the Company, (iii) take a leasehold interest in the Land, the Existing Improvements, Improvements and personal property constituting the Project (once the Lease Agreement, Leaseback Agreement and Tax Agreement have been negotiated), and (iv) provide financial assistance (the "Financial Assistance") to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Project, (b) a partial real property tax abatement structured through the Tax Agreement and, if necessary, (c) a mortgage recording tax exemption for the financing related to the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER AS FOLLOWS:

Section 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 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; and

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Project; and

(C) The Agency has the authority to take the actions contemplated herein under the Act; and

(D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Genesee County and otherwise furthering the purposes of the Agency as set forth in the Act;

(E) The Project will not result in the removal of a civic, 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 or any other proposed occupant

of the Project located within the State; and the Agency hereby finds that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries.

Section 2. The Chairman, Vice Chairman and/or the President/CEO of the Agency are hereby authorized, on behalf of the Agency, to hold a public hearing in compliance with the Act and negotiate the terms of (A) an Agent Agreement, pursuant to which the Agency appoints the Company as its agent to undertake the Project, (B) a Lease Agreement, pursuant to which the Company leases the Project to the Agency, (C) a related Leaseback Agreement, pursuant to which the Agency leases its interest in the Project back to the Company, (D) a Tax Agreement, pursuant to which the Company agrees to make certain payments-in-lieu-of real property taxes for the benefit of the affected tax jurisdictions, and (E) related documents; *provided*, (i) the rental payments under the 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; and (ii) the terms of the Tax Agreement is consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation therefrom have been complied with.

Section 3. The Agency is hereby authorized to conduct a public hearing or hearings in compliance with the Act.

Section 4. 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 and to execute and deliver all such 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 resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 5. These Resolutions 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:

| | <i>Yea</i> | <i>Nay</i> | <i>Absent</i> | <i>Abstain</i> |
|--------------------|------------|------------|---------------|----------------|
| Mary Ann E. Wiater | [X] | [] | [] | [] |
| John L. Rizzo | [X] | [] | [] | [] |
| Paul Battaglia | [X] | [] | [] | [] |
| Raymond Cianfrini | [X] | [] | [] | [] |
| Peter Zeliff | [] | [] | [X] | [] |
| Craig Yunker | [X] | [] | [] | [] |
| Matthew Gray | [X] | [] | [] | [] |

The Resolutions were thereupon duly adopted.

CERTIFICATION
(O-AT-KA Milk Products Cooperative, Inc. Project)

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

I, the undersigned Secretary of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, DO HEREBY CERTIFY:

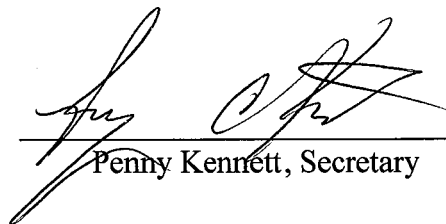
That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on August 13, 2015, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that 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 modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this 21st day of August, 2015.



Penny Kennett, Secretary