

INITIAL RESOLUTION
(Ellicott Station Development LLC Project)

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on October 4, 2018.

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

Resolution No. 10/2018 - 03

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") TO (i) SUPPLEMENT THE INITIAL RESOLUTION ADOPTED BY THE AGENCY ON JUNE 1, 2017 IN CONNECTION WITH A CERTAIN PROJECT WITH ELLICOTT STATION DEVELOPMENT LLC (THE "COMPANY") AS DESCRIBED BELOW; (ii) AUTHORIZE A PUBLIC HEARING WITH RESPECT TO THE PROJECT, AND (iii) DESCRIBE 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"), the **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, **ELLICOTT STATION DEVELOPMENT LLC** (the "Company"), previously submitted an application (the "Application") requesting the Agency's assistance with a certain project (the "Original Project") consisting of: (A) the acquisition or retention by the Agency of a leasehold interest in certain land located at 40-52 Ellicott Street, City of Batavia, Genesee County, New York (being more particularly described as tax map identification number 84.015-1-2) and at 56-70 Ellicott Street, City of Batavia, Genesee County, New York (being more particularly described as tax map identification number 84.015-1-5) and the existing improvements located thereon, consisting principally of a warehouse and an one-story building (the "Existing Improvements"), (B) (i) the renovation and equipping of approximately 16,965 square-feet of the Existing Improvements into a locally themed restaurant and production brew-house facility and (ii) the construction and equipping on the Land of an approximately 64,300 square-foot, four-story mixed-use building, containing approximately 16,000 square-feet of commercial office space and forty-eight (48) market-rate apartments and (iii) related improvements and infrastructure and (C) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property; and

WHEREAS, by resolution adopted June 1, 2017, the Agency accepted the Application and described the forms of financial assistance being contemplated by the Agency (the "Financial Assistance") with respect to the Original Project, such Financial Assistance consisting of: (i) an exemption from sales and use taxes; (ii) a mortgage recording tax exemption for financing related to the Project; and (iii) a partial real property tax abatement structured within the Tax Agreement (as defined below) (the "Initial Resolution").

WHEREAS, on or about September 26, 2018, the Company submitted an application supplementing, modifying and amending the Application (the "Supplemental Application") and requesting the Agency's assistance with modifications to the Original Project (as so modified and supplemented, the "Project") consisting of: (A) (i) the renovation and equipping of approximately 16,965 square-feet of the Existing Improvements into a locally themed restaurant and production brew-house facility, event space, and outdoor beer garden and (ii) the construction and equipping on the Land of an approximately 65,296 square-foot, five-story building, containing approximately fifty-five (55) mixed-income multifamily residential apartments with covered ground-floor parking and on-site playground and (iii) related improvements and infrastructure (collectively, the "Improvements"); (C) the construction and equipping on the first floor of the Improvements of approximately 16,850 square-feet of Class A multi-tenant commercial office space; and (D) the acquisition by the Company in and around the 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 of the State, the Agency desires to adopt a resolution describing the Project and the Financial Assistance (as 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 in respect to the Project and (i) negotiate with the Company, an Agent, Financial Assistance and Project Agreement (the "Agent Agreement"), a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement") and a payment-in-lieu-of-tax agreement (the "Tax Agreement"), (ii) take or retain a leasehold interest in the Land, the Existing Improvements, the Improvements, the Equipment and the personal property constituting the Facility (once the Lease Agreement, the Leaseback Agreement and the Tax Agreement have been negotiated), and (iii) provide financial assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the undertaking of the Project, (b) an abatement from mortgage recording tax exemption for the financing related to the Project and (c) a partial real property tax abatement or exemption structured through the Tax Agreement (the "Financial Assistance"); and

WHEREAS, the Agency desires to adopt a resolution: (i) accepting the Company's Supplemental Application; (ii) describing the forms of financial assistance being contemplated in connection with the Project; and (iii) authorizing a public hearing in compliance with the Act with respect 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 the Supplemental Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's Supplemental 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) 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 induce the Company to develop the Project, thereby increasing employment opportunities in Genesee County, preventing the economic deterioration in Genesee County 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 civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of 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 Supplemented Project located within the State; and the Agency hereby finds that, based on the Company's Supplemental Application, to the extent occupants are relocating from one plant or facility to another, the Supplemented 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; and

Section 2. The Chairman, Vice Chairman and/or the President/CEO and/or the Senior Vice President of Operations 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 are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation therefrom have been complied with. Counsel and Agency staff are hereby authorized to

commence procedures for deviation in the event the contemplated Financial Assistance deviates from the Agency's Uniform Tax Exemption Policy.

Section 4. The Agency is hereby authorized to conduct a public hearing in compliance with the Act.

Section 5. 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 6. 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>
Paul Battaglia	[]	[]	[X]	[]
Peter Zeliff	[X]	[]	[]	[]
Craig Yunker	[]	[]	[X]	[]
Matthew Gray	[X]	[]	[]	[]
Todd Bender	[X]	[]	[]	[]
Andrew Young	[X]	[]	[]	[]
Amy Vanderhoof	[X]	[]	[]	[]

The Resolutions were thereupon duly adopted.

CERTIFICATION
(Ellicott Station Development LLC 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:

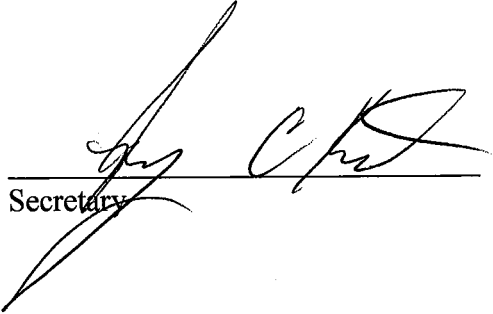
That I have compared the minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on October 4, 2018, with the original thereof on file in my office, and that the same is 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 11th day of October, 2018.



Secretary