

AUTHORIZING RESOLUTION

(Cayuga Milk Ingredients, LLC – Amended Application and LDA)

A regular meeting of Cayuga County Industrial Development Agency was convened on Tuesday, June 20, 2023 at 4:00 p.m.

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

Resolution No. 06/2023 - ___

RESOLUTION OF THE CAYUGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) ACCEPTING THE AMENDED APPLICATION OF CAYUGA MILK INGREDIENTS, LLC (THE “COMPANY”); (ii) ADOPTING AN AMENDED PROJECT DESCRIPTION, AS FURTHER DEFINED HEREIN; (iii) AUTHORIZING THE EXECUTION AND DELIVERY OF AMENDMENT NO. 1 TO A CERTAIN LAND DEVELOPMENT AGREEMENT (“LDA AMENDMENT NO. 1”) TO BE ENTERED INTO BY THE AGENCY AND COMPANY WITH RESPECT TO THE CERTAIN PROJECT (AS MORE FULLY DEFINED BELOW)

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 688 of the Laws of 1970 of the State of New York, (hereinafter collectively called the “Act”), the **CAYUGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called the “Agency”) was created with the authority and power to promote, develop, encourage and assist in acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research, and recreational facilities as authorized by the Act, and in connection therewith to issue its revenue bonds, enter into straight lease transactions and provide other forms of financial assistance; and

WHEREAS, pursuant to and in accordance with a certain Project Authorizing Resolution adopted by the Agency on September 25, 2012 (the “2012 Project Authorizing Resolution”), the Agency previously undertook a certain project (the “2012 Project”) consisting of (A) the sale or lease by the Agency to **CAYUGA MILK INGREDIENTS, LLC** (hereinafter, the “Company”) of an approximately 25-acre parcel of land located off Eagle Drive within the Agency-owned Aurelius Industrial Park (the “Park”), Town of Aurelius, Cayuga County, New York (the “Land”, being all or portions of former TMID Nos. 114.00-3-2, 114.00-3-3, 114.00-3-06 and 114.00-3-7, as merged into existing Lot 2 in the Aurelius Industrial Park and identified as TMID No. 114.00-3-2.1); (B) the planning, design, construction and operation on the Land by the Company of an approximately 108,000 square-foot dairy ingredients processing facility (the “2012 Improvements”); (C) the acquisition and installation in and around the Improvements of certain machinery, equipment and other items of tangible personal property (the “2012 Equipment”); (D) the planning, design, construction and operation on the Land by the Company of certain wastewater treatment and solid waste disposal building improvements and related equipment to serve the Improvements (the “2012 Treatment Facility”, and collectively with the Land, Improvements and the Equipment, the “2012 Facility”); (E) at the election of the

Company, the issuance by the Agency of its Exempt Facility Revenue Bonds (Cayuga Milk Ingredients, LLC Project) in a principal amount not to exceed \$30,000,000 (the “Bonds”) for the purpose of financing the Treatment Facility in accordance with applicable provisions of the Internal Revenue Code (the “Code”) relating to sewer treatment and solid waste disposal; (F) paying certain costs and expenses incidental to the issuance of the Bonds and/or establishment of debt service reserve funds (the costs associated with item (D) above being hereinafter collectively referred to as the “Treatment Facility Costs”); and (G) the lease (with an obligation to purchase) or sale of the Agency’s interest in the Facility back to the Company; and

WHEREAS, the Agency and Company undertook the 2012 Project pursuant to a Straight Lease Transaction, as defined within the Act, which included and was memorialized by certain project documents (the “2012 Project Documents”, each dated as of April 8, 2013), including (i) a certain Warranty Deed (the “Warranty Deed”), (ii) a Lease Agreement (the “Lease Agreement”), (iii) a Leaseback Agreement (the “Leaseback Agreement”), (iv) a Payment-in-lieu-of Tax Agreement (the “PILOT Agreement”), (v) a PILOT Mortgage Agreement (the “PILOT Mortgage”, as amended), (vi) a Bill of Sale (the “Bill of Sale to Agency”), and (vii) related documents; and

WHEREAS, pursuant to and in accordance with a certain Project Authorizing Resolution adopted by the Agency on June 16, 2020 (the “2020 Project Authorizing Resolution”) the Agency previously undertook a certain project (the “2020 Project”) consisting of the appointment of the Company as agent of the Agency to undertake the planning, design, construction and operation of approximately 3,000 sf of building additions to the 2012 facility, including an approximately 2,408 sf addition at approximately 104 feet tall to house product evaporation and finishing equipment, an approximately 500 sf silo tank hall and dryer addition, along with additional building and site improvements and modifications within and around the 2012 Improvements (collectively, the “2020 Improvements”); (iii) the acquisition of and installation in and around the Land and 2012 Improvements and 2020 Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property, including silos, tanks, membranes, boilers and wastewater treatment equipment (the “2020 Equipment” and, collectively with, the Land and the Improvements, the “2020 Facility”); and

WHEREAS, the Agency and Company undertook the 2020 Project pursuant to a certain Agent and Financial Assistance and Project Agreement, dated as of June 16, 2020, along with related documents; and

WHEREAS, the Company also previously submitted an application to the Agency requesting the Agency’s assistance with a certain project (the “Project”) consisting of: (i) retention by the Agency of a leasehold interest in the Land, subject to (a) the removal of approximately 3 acres of the Land to be transferred by the Company to an affiliate (with the 2012 Project Documents amended accordingly), and (b) the sale by the Agency to the Company of approximately 10.315 acres of real property identified as Lot 4 and TMID No. 114.00-3-4 (the “Agency Lands”) to be incorporated into the 2012 Facility and 2020 Facility; (ii) the appointment of the Company as agent of the Agency to undertake the planning, design, construction and operation of certain improvements to the 2012 Facility and 2020 Facility, including expanded milk product receiving bays, expanded wastewater treatment facilities and

improvements, establishment of trucking and parking improvements, along with additional building and site improvements and modifications within and around the 2012 Improvements, 2020 Improvements and Lot 4 (collectively, the “Improvements”); (iii) the acquisition of and installation in and around the Land, Lot 4, 2012 Improvements, 2020 Improvements and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property and wastewater treatment equipment (the “Equipment” and, collectively with, the Land and the Improvements, the “Facility”); and (iii) amendment of the 2012 Project Documents to provide for a continuing straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the “Straight Lease Transaction”); and

WHEREAS, by resolution adopted August 16, 2022 (the “Initial Project Resolution”), the Agency accepted the Application as submitted by the Company and, among other things, authorized the scheduling and conduct of a public hearing in accordance with the Act; and

WHEREAS, pursuant to the Initial Project Resolution, the Agency authorized the negotiation of terms for disposition of either a fee or leasehold interest in the Agency Lands to the Company (the “Disposition”) to be memorialized within a Land Development Agreement (“LDA”) in furtherance of the Project; and

WHEREAS, in furtherance of the Disposition, and in accordance with applicable provisions of the Public Authorities Law (“PAL”), the Agency issued a Notice of Disposition to required recipients pursuant to PAL Section 2897(6)(d), dated September 13, 2022, such Disposition being exempted from publicly advertising for bids pursuant to PAL Section 2897(6)(c)(v) and obtaining fair market value pursuant to PAL Section 2897(7)(ii); and

WHEREAS, in furtherance of the Project and the Disposition, and pursuant to a resolution adopted by the Agency on October 18, 2022, the Agency and Company entered into a certain Land Development Agreement with Exclusive Option and License, dated as of November 4, 2022 (herein, the “LDA”), such LDA setting forth the terms and conditions relating to (i) the Disposition of the Agency Lands to the Company in furtherance of the Project, and (ii) the Company’s obligations with respect to undertaking the Project, all of the foregoing being contemplated by the Agency and Company in furtherance of the Project, which will be undertaken by the Company as agent of the Agency pursuant to and in accordance with the Act; and

WHEREAS, the Company has advised the Agency regarding certain proposed revisions to the engineering, design, footprint for the overall Project, which have been submitted to the Town of Aurelius Planning Board for review and consideration; and

WHEREAS, the Company has also submitted an updated Application to the Agency (the “Updated Application”), and Agency continues to support the Project and the Company’s overall plans for expansion within the Aurelius Industrial Park, and therefore the Agency wishes to authorize: (i) the acceptance of the Updated Application; (ii) adoption of an updated description

of the Project; and (iii) authorizing the execution and delivery of a first amendment to the LDA (herein, the “Amended LDA”).

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

Section 1. The Agency hereby accepts the Updated Application and the Chairman (or Vice Chairman) and/or Executive Director of the Agency are authorized to continue negotiation of the terms of a PILOT Agreement relating to the Project, along with the proposed financial assistance contemplated by the Agency (collectively, the “Financial Assistance”).

Section 2. The Agency hereby amends the description of the Project as contained within in the Initial Project Resolution to read as follows:

(i) retention by the Agency of a leasehold interest in the Land, subject to (a) the removal of approximately **7.458** acre portion of the Land (within existing TMID 114.00-3-2.1) to be transferred by the Company to an affiliate (with the 2012 Project Documents amended accordingly, and (b) the sale by the Agency to the Company of approximately 10.315 acres of real property identified as Lot 4 and TMID No. 114.00-3-4 **and approximately .584 acres of real property located within existing Eagle Drive (portion of TMID No. 114.00-3-99.1, and collectively with TMID No. 114.00-3-4, the “Agency Lands”)** to be incorporated into the 2012 Facility and 2020 Facility; (ii) the appointment of the Company as agent of the Agency to undertake the planning, design, construction and operation of certain improvements to the 2012 Facility and 2020 Facility, including expanded milk product receiving bays, establishment of trucking and parking improvements, along with additional building and site improvements and modifications within and around the 2012 Improvements, 2020 Improvements and Agency Lands (collectively, the “Improvements”); (iii) the acquisition of and installation in and around the Land, Agency Lands, 2012 Improvements, 2020 Improvements and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property and wastewater treatment equipment (the “Equipment” and, collectively with, the Land and the Improvements, the “Facility”); and (iii) amendment of the 2012 Project Documents to provide for a continuing straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the “Straight Lease Transaction”); and

Section 3. The Agency hereby authorizes the undertaking of the Disposition of the Agency Lands to the Company in accordance with the terms and conditions set forth within the Amended LDA. The Chairman (or Vice Chairman) and/or Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Amended LDA in substantially the form attached hereto as **Exhibit A**, with such changes, variations, omissions and insertions as authorized by the Chairman, Vice Chairman and/or Executive Director of the Agency, the execution thereof by the Chairman, Vice Chairman and/or Executive Director of the Agency to constitute conclusive evidence of such approval.

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.

The question of the adoption of the foregoing Resolution was duly put to vote on roll call, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Paul W Lattimore, Jr.	[]	[]	[]	[]
Andrew Rindfleisch	[]	[]	[]	[]
John Latanyshyn	[]	[]	[]	[]
Raymond E. Lockwood	[]	[]	[]	[]
Herb Marshall	[]	[]	[]	[]
Gina Speno	[]	[]	[]	[]
Robert Shea	[]	[]	[]	[]

The Resolution was thereupon declared duly adopted.

SECRETARY'S CERTIFICATION

STATE OF NEW YORK)
COUNTY OF CAYUGA) SS:

I, the undersigned Acting Secretary of the Cayuga County Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Cayuga County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on June 20, 2023, 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 __ day of _____, 2023.

Secretary

[SEAL]

EXHIBIT A

FORM OF AMENDED LDA