

**FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

*Adopted January 16, 2019*

*Introduced by Joseph Gillis  
who moved its adoption.*

*Seconded by Todd Rulison*

**RESOLUTION ACCEPTING AN APPLICATION FOR FINANCIAL ASSISTANCE  
SUBMITTED BY PALATINE DAIRY, LLC (THE “COMPANY”) RELATING TO A  
CERTAIN PROJECT; AUTHORIZING A PUBLIC HEARING WITH RESPECT TO  
THE PROJECT; AND DESCRIBING THE FINANCIAL ASSISTANCE BEING  
CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT**

WHEREAS, Palatine Dairy, LLC, a limited liability company established pursuant to the laws of the State of New York, having an address of 68 East Main Street, Nelliston, New York 13410 (the “Company”) has requested that the Agency provide financial assistance in the form of a payment of lieu of taxes and sales tax abatements regarding a project (the “Project”) to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real property located at 251 N. Comrie Avenue in the City of Johnstown, County of Fulton, New York (the “Land”, being more particularly described as tax parcel number 163.13-1-8); (ii) the design, reconstruction, renovation, operation and maintenance by the Company of an approximately 78,000+/- square foot facility for the manufacturing, warehousing and storing of dairy products and incidental retail use (the “Improvements”); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the “Equipment” and, collectively with, the Land and the Improvements, the “Facility”) and (iv) entering into a 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”), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the “Act”), as amended; 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 Agency must (i) adopt a resolution describing the project and the financial assistance contemplated by the Agency with respect thereto, and (ii) 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, the Agency is in the process of reviewing and considering the Company’s Application requesting the Agency to provide financial assistance for the proposed Project (collectively the “Financial Assistance” in the form of (i) an exemption from all State and local sales and use taxes with respect to qualifying personal property included in and incorporated into

the Facility or used in the acquisition, construction or equipping of the Facility and (ii) a partial real property tax abatement through a payment in lieu of tax agreement (the “PILOT Agreement”), pursuant to which the Company would make payments in lieu of real property taxes to each affected tax jurisdiction (the “Affected Tax Jurisdictions”), all of which shall be consistent with the uniform tax exemption policy of the Agency; and

WHEREAS, the Agency desires to (i) accept the Application; (ii) authorize the scheduling and conduct of a public hearing; and (iii) negotiate, but not enter into an Agent Agreement and Project Agreement, pursuant to which the Agency will designate the Company as its agent for the purpose of acquiring, constructing and equipping the Project, and Lease Agreement, a Leaseback Agreement and related Payment in lieu of Tax Agreement with the Company.

**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 hereby 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.

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 and (ii) a partial real property tax abatement through a PILOT Agreement, pursuant to which the Company would make payments in lieu of real property taxes to the Affected Tax Jurisdictions.

3. The Chairman, Vice Chairman and/or the Executive Director 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 public hearing pursuant to Article 18-A of the

New York State General Municipal Law to be held by the Agency on Tuesday, the 5th day of February, 2019, at 10:00 a.m., local time, at the Offices of the Fulton County Industrial Development Agency, located at 1 East Montgomery Street, Johnstown, New York 12095, in connection with the Project. The Agency hereby authorizes the publication of a Notice of Public Hearing for the Project and in accordance with the Act and the Agency's policies and procedures.

5. This resolution shall take effect immediately.

AYES: 7  
NAYS: 0  
ABSENT: 0  
ABSTAIN: 0

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 16<sup>th</sup> day of January, 2019, and the same is a true and correct transcript there from and the whole thereof.

Witness my hand and official seal  
This 16<sup>th</sup> day of January, 2019

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James E. Mraz, Executive Director