

**ULTRA DAIRY, LLC**

**SEQRA RESOLUTION**

**(3101-21-11H)**

A regular meeting of the Onondaga County Industrial Development Agency was convened in public session on September 14, 2021, at 8:00 a.m., local time at 333 West Washington Street, Syracuse, New York.

The meeting was called to order by the (Vice) Chairman of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:** Patrick Hogan  
Janice Herzog  
Victor Ianno  
Steve Morgan  
Susan Stanczyk  
Fanny Villarreal

**ABSENT:** Kevin Ryan

**ALSO PRESENT:** Robert Petrovich, Interim Executive Director  
Jeffrey W. Davis, Esq., Agency Counsel

The following resolution was offered by Janice Herzog, seconded by Victor Ianno, to wit:

**RESOLUTION OF THE ONONDAGA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY DETERMINING THAT A CERTAIN  
LEASE/LEASEBACK TRANSACTION FOR ULTRA DAIRY, LLC  
WILL NOT HAVE A SIGNIFICANT ADVERSE EFFECT ON THE  
ENVIRONMENT PURSUANT TO THE STATE  
ENVIRONMENTAL QUALITY REVIEW ACT**

WHEREAS, Onondaga County Industrial Development Agency (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"), Chapter 435 of the Laws of 1970 of the State of New York and Chapter 676 of the Laws of 1975 of the State of New York, 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, 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 12, 2003, the Agency undertook a project (the “2003 Project”) on behalf of Ultra Dairy, LLC (the “Company”) consisting of the following: (A)(1) the acquisition of an interest in an approximately 21 acre parcel of land located at 6750 Benedict Road (tax map no. 042.-13-05.1) in the Town of Dewitt, Onondaga County, New York (the “Land”); (2) the construction on the Land of an approximately 31,000 square foot manufacturing and packaging facility for use by the Company (the “2003 Facility”); and (3) the acquisition and installation in the 2003 Facility of certain machinery and equipment (the “2003 Equipment” and collectively with the Land and the 2003 Facility, the “2003 Project Facility”); (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 estate transfer taxes and real property taxes; (C) the lease (with an obligation to purchase) or sale of the 2003 Project Facility to the Company; and (D) assisting the Company in the financing of the 2003 Project Facility; and

WHEREAS, in connection with the 2003 Project, the Agency and the Company entered into, *inter alia*, an underlying lease agreement dated as of August 1, 2003, a memo of which was recorded in the Onondaga County Clerk’s Office (the “Clerk’s Office”) on August 19, 2003 in Book 4793 at Page 437 in which the Company leases its interest in the Land and the 2003 Facility to the Agency (the “2003 Underlying Lease”), a bill of sale dated as of August 1, 2003 pursuant to which the Company sold its interest in the 2003 Equipment to the Agency (the “2003 Company Bill of Sale”), a lease agreement dated as of August 1, 2003, a memo of which was recorded in the Clerk’s Office on August 19, 2003 in Book 4793 at Page 443 in which the Agency leases its interest in the 2003 Project Facility to the Company (the “2003 Agency Lease”) and a payment in lieu of tax agreement dated as of August 1, 2003 (the “2003 PILOT”); and

WHEREAS, pursuant to a resolution adopted by the members of the Agency on December 14, 2006 the Agency undertook a project (the “2007 Project”) on behalf of the Company consisting of the following: (A)(1) construction of an approximately 4,000 square foot addition to and modification of the 2003 Facility (as modified and expanded, the “2007 Facility”); and (2) the acquisition and installation in the 2007 Facility of certain machinery and equipment (the “2007 Equipment”) (the Land, the 2007 Facility and the 2007 Equipment are sometimes hereinafter collectively referred to as the “2007 Project Facility”); and (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; and

WHEREAS, pursuant to a resolution adopted by the members of the Agency on July 10, 2008 the Agency undertook a project (the “2008 Project”) on behalf of the Company consisting of the following: (A)(1) construction of an approximately 55,000 square foot expansion of the 2007 Facility (as modified and expanded, the “2008 Facility”); and (2) the acquisition and installation in the 2008 Facility of certain machinery and equipment (the “2008 Equipment”) (the Land, the 2008 Facility and the 2008 Equipment are sometimes hereinafter collectively referred to as the “2008 Project Facility”); and (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 ; and

WHEREAS, on March 1, 2010, the Agency and the Company entered into an amended and restated payment in lieu of tax agreement dated as of March 1, 2010 (the "2010 PILOT"), which amended and restated, in its entirety, the 2003 PILOT; and

WHEREAS, pursuant to resolution adopted by the Agency on October 9, 2018, the Agency undertook a project (the "2019 Project") on behalf of the Company consisting of the following: (A)(1) the retention of the Agency's interest in the Land and the 2008 Project Facility; (2) the construction of an approximately 38,400 square foot addition, an approximately 2,970 square foot addition and an approximately 1,165 square foot addition to the 2008 Project Facility (the "2019 Improvements" and, together with the 2008 Facility, the "2019 Facility") located on the Land; and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the "2019 Equipment") (the Land, the 2019 Facility, the 2003 Equipment, the 2007 Equipment, the 2008 Equipment and the 2019 Equipment being collectively referred to as the "2019 Project Facility"), such 2019 Project Facility to provide manufacturing, storage and cooling space for the manufacturing, storage and shipment of dairy and non-dairy food products; (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 mortgage recording taxes subject to certain statutory limitations; and (C) the lease (with an obligation to purchase) or sale of the 2019 Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, in connection with the 2019 Project, the Agency and the Company entered into, *inter alia*, an amended and restated underlying lease agreement dated as of May 1, 2019, a memo of which was recorded in the Onondaga County Clerk's Office (the "Clerk's Office") on January 9, 2020 as Instrument Number 2020-00001058, a bill of sale dated as of May 1, 2019 pursuant to which the Company sold its interest in the 2019 Equipment to the Agency, an amended and restated lease agreement dated as of May 1, 2019, a memo of which was recorded in the Clerk's Office on January 9, 2020 as Instrument Number 2020-00001059 and a payment in lieu of tax agreement dated as of May 1, 2019 (the "2019 PILOT"), which amended and restated, in its entirety, the 2010 PILOT; and

WHEREAS, by resolution adopted by the Agency on August 5, 2020, the Agency undertook a project (the "2020 Project") on behalf of the Company consisting of the following: (A)(1) the retention of the Agency's interest in the Land and the 2019 Project Facility; (2) the construction of an approximately 26,000 square foot addition to the 2019 Project Facility (the "2020 Improvements" and, together with the 2019 Facility, the "2020 Facility") located on the Land; and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the "2020 Equipment") (the Land, the Facility, the 2003 Equipment, the 2007 Equipment, the 2008 Equipment, the 2019 Equipment and the 2020 Equipment being collectively referred to as the "2020 Project Facility"), such 2020 Improvements to provide space for an aseptic dairy processing area; (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 and real property taxes

; and (C) the lease (with an obligation to purchase) or sale of the 2020 Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, in connection with the 2020 Project, the Agency and the Company entered into, *inter alia*, a second amended and restated underlying lease agreement dated as of August 1, 2020, a memo of which was recorded in the Onondaga County Clerk's Office (the "Clerk's Office") on August 7, 2020 as Instrument Number 2020-00026352, a bill of sale dated as of August 1, 2020 pursuant to which the Company sold its interest in the 2020 Equipment to the Agency, a second amended and restated lease agreement dated as of August 1, 2020, a memo of which was recorded in the Clerk's Office on August 7, 2020 as Instrument Number 2020-00026351 and a payment in lieu of tax agreement dated as of August 1, 2020 (the "2020 PILOT"), which amended and restated, in its entirety, the 2019 PILOT; and

WHEREAS, the Company, has submitted an application to the Agency (the "Application") on behalf of itself and entities formed or to be formed on its behalf, a copy of which Application is on file at the office of the Agency, which Application requests that the Agency consider undertaking a new project (the "Project") for the benefit of the 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 Land and the 2020 Project Facility; (2) the construction of an approximately 6,500 square foot facility on the Land (the "2021 Improvements" and, together with the 2020 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 2003 Equipment, the 2007 Equipment, the 2008 Equipment, the 2019 Equipment, the 2020 Equipment and the Equipment being collectively referred to as the "Project Facility"), such 2021 Improvements to provide space for a wastewater treatment facility; (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 estate transfer taxes and real property taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, pursuant to SEQRA, the Agency is required to make a determination with respect to the environmental impact of any "action" (as defined by SEQRA) to be taken by the Agency, and the approval of the Project and grant of Financial Assistance constitute such an action; and

WHEREAS, the Project has previously been subject to an environmental impact review conducted by the Town of Dewitt Planning Board, which after conducting a thorough review of the Project and its potential effects, declared the Project an Unlisted Action and issued a Negative Declaration dated September 9, 2021, stating the Project would have no significant adverse impacts upon the environment and an Environmental Impact Statement thus need not be prepared, said Negative Declaration attached hereto as "Exhibit A"; and

WHEREAS, to aid the Agency in determining whether the Project may have a significant effect upon the environment, the Company has prepared and submitted to the Agency an

Environmental Assessment Form (the “EAF”), a copy of which is on file in the office of the Agency and is readily accessible to the public; and

WHEREAS, the Agency has examined and reviewed the EAF in order to classify the Project;

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

Section 1. Based upon an examination of the EAF prepared by the Company, the criteria contained in 6 NYCRR §617.7(c), and based further upon the Agency’s knowledge of the area surrounding the Project Facility, all the representations made by the Company in connection with the Project, and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations with respect to the Project pursuant to SEQRA:

- (a) The Project consists of the components described above;
- (b) The Project constitutes an “Unlisted” action (as said quoted term is defined in SEQRA);
- (c) The Agency reaffirms, accepts and adopts in full the Town of Dewitt Planning Board’s September 9, 2021 SEQRA Negative Declaration for the Project.

Section 2. The Agency hereby authorizes Agency staff or counsel to take all further actions deemed necessary and appropriate to fulfill the Agency’s responsibilities under SEQRA

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	X		
Victor Ianno	X		
Steve Morgan	X		
Susan Stanczyk	X		
Kevin Ryan			X
Fanny Villarreal	X		

The Resolution was thereupon declared duly adopted.

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

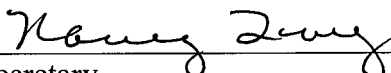
I, the undersigned Secretary of the Onondaga County Industrial Development Agency, DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on September 14, 2021, with the original thereof 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 15th day of September, 2021.

(SEAL)

  
Secretary

**Exhibit A**

**(attach copy of Town of Dewitt Planning Board Neg Dec)**