

**APPROVING RESOLUTION
KEUKA OUTLET DEVELOPMENT LLC PROJECT**

A regular meeting of Yates County Industrial Development Agency (the "Agency") was convened in public session in the offices of the Agency located at One Keuka Business Park in Penn Yan, Yates County, New York on January 23, 2015 at 8:00 o'clock a.m., local time.

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:

James Long	Chairman
Jerry Hiller	Vice Chairman
Rita Gow	Member
Mark Morris	Member
Gene Pierce	Member
James Willson	Member

ABSENT:

Mary Ann Zelazny	Assistant Secretary/Treasurer
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AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Steve Griffin	Chief Executive Officer
Doreen Jensen	Chief Financial Officer
Alex Taylor	Director of Community Development

The following resolution was offered by Jerry Hiller, seconded by Mark Morris, to wit:

RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION WITH A LEASE/LEASEBACK TRANSACTION FOR A PROJECT FOR KEUKA OUTLET DEVELOPMENT LLC (THE "COMPANY").

WHEREAS, Yates 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") and Chapter 113 of the 1975 Laws of New York, as amended, constituting Section 893-b 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

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WHEREAS, Keuka Outlet Development LLC, a New York limited liability company (the "Company"), has submitted an application (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in a parcel of land containing approximately 14.70 acres located at 15 Waddell Avenue (Tax Map # 61.26-1-1) in the Town of Milo, Village of Penn Yan, Yates County, New York (the "Land"), (2) the construction on the Land of an approximately 36 unit condominium facility and boat marina to contain in the aggregate approximately 70,000 square feet of space (collectively, the "Facility"), (3) the construction of sanitary sewer, water mains and other related infrastructure to support the Facility (collectively, the "Improvements") and (4) the acquisition and installation therein and thereon of certain machinery and equipment (the "Equipment") (the Land, the Facility, the Improvements and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to constitute an approximately 36 unit market rate condominium complex and boat marina and any other directly and indirectly related activities; (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, real estate transfer taxes and mortgage recording 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, by resolution adopted by the members of the Agency on September 17, 2014 (the "Public Hearing Resolution"), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the "Public Hearing") pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on October 6, 2014 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located, (B) caused notice of the Public Hearing to be posted on October 7, 2014 on a public bulletin board located at (1) the Yates County Courthouse located at 417 Liberty Street, Penn Yan, Yates County, New York, and (2) the Town of Milo Town Offices located at 137 Main Street, Penn Yan, New York (C) caused notice of the Public Hearing to be published on October 8, 2014 in The Chronicle Express, a newspaper of general circulation available to the residents of the Town of Milo and Village of Penn Yan, New York, (D) conducted the Public Hearing on October 21, 2014 at 9:00 o'clock a.m., local time at the offices of the Agency located at One Keuka Business Park in the Town of Milo, Yates County, New York, and (E) prepared a report of the Public Hearing (the "Hearing Report") fairly summarizing the views presented at such Public Hearing and caused copies of said Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Agency on January 23, 2015 (the "SEQR Resolution"), the Agency (A) concurred in the determination that the Village of Penn Yan Board of Trustees (the "Village Board") is the "lead agency" with respect to SEQRA and (B) acknowledged receipt of a negative declaration from the Village Board dated December 16, 2014 (the "Negative Declaration"), in which the Village Board determined that the Project will not have a "significant environmental impact on the environment" and accordingly, that an environmental impact

statement is not required to be prepared with respect to the Project (as such quoted terms are defined in SEQRA); and

WHEREAS, the Agency has given due consideration to the Application, and to representations by the Company that (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Company to undertake the Project in Yates County, New York and (B) the completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York; and

WHEREAS, the Agency desires to encourage the Company to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of Yates County, New York by undertaking the Project in Yates County, New York; and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance described in the notice of the Public Hearing, the Agency proposes to enter into the following documents (hereinafter collectively referred to as the "Agency Documents"): (A) a certain lease to agency (the "Lease to Agency" or the "Underlying Lease") by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the "Leased Premises"); (B) a certain license agreement (the "License to Agency" or the "License Agreement") by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company will grant to the Agency (1) a license to enter upon the balance of the Land (the "Licensed Premises") for the purpose of undertaking and completing the Project and (2) in the event of an occurrence of an Event of Default by the Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement (as hereinafter defined); (C) a lease agreement (and a memorandum thereof) (the "Lease Agreement") by and between the Agency and the Company, pursuant to which, among other things, the Company agrees to undertake the Project as agent of the Agency and the Company further agrees to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency's administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project; (D) a payment in lieu of tax agreement (the "Payment in Lieu of Tax Agreement") by and between the Agency and the Company, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility; (E) a project benefits agreement (the "Project Benefits Agreement") by and between the Agency and the Company regarding the granting of the financial assistance and the potential recapture of such assistance; (F) a certain recapture agreement (the "Section 875 GML Recapture Agreement") by and between the Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes; (G) a sales tax exemption letter (the "Sales Tax Exemption Letter") to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance; (H) a New York State Department of Taxation and Finance form entitled "IDA Appointment of Project Operator or Agency for Sales Tax Purposes" (the form required to be filed pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Report") and any additional report to the Commissioner of the State Department of Taxation and Finance concerning the amount of sales tax exemption benefit for the Project (the "Additional Thirty-Day Project Report"); (I) if the Company intends to finance the Project with borrowed money, a mortgage and any other security documents and related documents (collectively, the "Mortgage") from the Agency and the Company to the Company's lender with respect to the Project ("the "Lender"), which Mortgage will grant a lien on and security interest in the Project Facility to secure a loan from the Lender to the Company with respect to the Project (the "Loan"); and (J) various certificates relating to the Project (the "Closing Documents");

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

Section 1. All action taken by the Chief Executive Officer of the Agency with respect to the Public Hearing with respect to the Project is hereby ratified and confirmed.

Section 2. The law firm of Hodgson Russ LLP is hereby appointed Special Counsel to the Agency with respect to all matters in connection with the Project. Special Counsel for the Agency is hereby authorized, at the expense of the Company, to work with the Company, counsel to the Company, counsel to the Agency and others to prepare, for submission to the Agency, all documents necessary to effect the transactions contemplated by this Resolution. Special Counsel has prepared and submitted an initial draft of the Agency Documents to staff of the Agency.

Section 3. (A) Based upon an examination of the Application and based further upon the Agency's knowledge of the area surrounding the Project and such further investigation of the Project and its economic effects as the Agency has deemed appropriate, the Agency makes the following special findings with respect to the Project:

1. That the Application indicates that the Project will create permanent private sector jobs in connection with the ongoing maintenance and operation of the Project Facility.

2. That undertaking the Project will:

A. provide good quality housing to individuals seeking to reside and work in Yates County;

B. improve the quality of housing in Yates County;

C. provide for the clean-up of the site of the Project Facility under the New York State Department of Environmental Conservation Brownfield Cleanup Program;

D. provide for the construction and installation of new water and sewer infrastructure serving the site of the Project; and

E. promote additional development at the site of the Project because of the improvement of the water and sewer infrastructure and the Brownfield Cleanup.

3. That improving the quality and quantity of housing stock in Yates County will encourage future commercial and residential development and expansion in Yates County.

(B) Based upon the foregoing, the Agency makes the following special determinations with respect to the Project:

1. That (a) the Project Facility will provide necessary infrastructure for area employers, (b) that completion of the Project Facility will have an impact upon the creation, retention and expansion of employment opportunities in Yates County and in the State of New York, and (c) that completion of the Project will assist in promoting employment opportunities and assist in preventing economic deterioration in Yates County and in the State of New York.

2. That the acquisition, construction and installation of the Project Facility is essential to the retention of existing employment and the creation of new employment opportunities and is essential to the prevention of economic deterioration of businesses located in Yates County.

3. That the Project constitutes a "commercial" project, within the meaning of the Act.

4. That the Project will serve the public purposes of the Act by preserving permanent, private sector jobs or by increasing the overall number of permanent, private sector jobs in the State of New York.

Section 4. 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;

(B) The Project constitutes a "project," as such term is defined in the Act;

(C) The Project site is located entirely within the boundaries of Yates County, New York;

(D) It is estimated at the present time that the costs of the planning, development, acquisition, construction, reconstruction and installation of the Project Facility (collectively, the "Project Costs") will be approximately \$14,164,000;

(E) The completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York;

(F) The granting of the Financial Assistance by the Agency with respect to the Project will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Yates County, New York and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act;

(G) Although the Project may constitute a project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost, (1) the predominant purpose of the Project is to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of Yates County because of a lack of reasonably accessible facilities offering such goods or services, and (2) completion of the Project will serve the public purposes of the act by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the State of New York.

(H) The Agency has reviewed the Public Hearing Report and has fully considered all comments contained therein; and

(I) It is desirable and in the public interest for the Agency to enter into the Agency Documents.

Section 5. In consequence of the foregoing, the Agency hereby determines to: (A) accept the License Agreement; (B) lease the Project Facility to the Company pursuant to the Lease Agreement; (C) acquire, construct and install the Project Facility, or cause the Project Facility to be acquired, installed and constructed; (D) enter into the Payment in Lieu of Tax Agreement; (E) enter into the Project Benefits Agreement; (F) enter into the Section 875 GML Recapture Agreement; (G) secure the Loan by entering into the Mortgage; and (H) grant the Financial Assistance with respect to the Project.

Section 6. The Agency is hereby authorized (A) to acquire a license in the Licensed Premises pursuant to the License Agreement, (B) to acquire a leasehold interest in the Leased Premises pursuant to the Underlying Lease, (C) to acquire title to the Equipment pursuant to a bill of sale (the "Bill of Sale to Agency") from the Company to the Agency, and (D) to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisitions are hereby approved, ratified and confirmed.

Section 7. The Agency is hereby authorized to acquire, construct and install the Project Facility as described in the Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition, construction and installation are hereby ratified, confirmed and approved.

Section 8. The Chairman (or Vice Chairman) of the Agency, with the assistance of Agency Counsel and/or Special Counsel, is authorized to negotiate and approve the form and substance of the Agency Documents.

Section 9. (A) The Chairman (or Vice Chairman) of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agency Documents, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in the forms thereof as the Chairman (or Vice Chairman) shall approve, the execution thereof by the Chairman (or Vice Chairman) to constitute conclusive evidence of such approval.

(B) The Chairman (or Vice Chairman) of the Agency is hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 10. 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 or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional 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 Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 11. This Resolution shall take effect immediately.

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

James Long	VOTING	<u>Yes</u>
Jerry Hiller	VOTING	<u>Yes</u>
Mary Ann Zelazny	VOTING	<u>Absent</u>
Rita Gow	VOTING	<u>Yes</u>
Mark Morris	VOTING	<u>Yes</u>
Gene Pierce	VOTING	<u>Yes</u>
James Willson	VOTING	<u>Yes</u>

The foregoing Resolution was thereupon declared duly adopted.

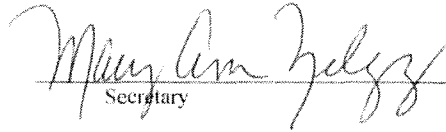
STATE OF NEW YORK)
) SS.:
COUNTY OF YATES)

I, the undersigned (Assistant) Secretary of Yates County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on January 23, 2015 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters 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 and affixed the seal of the Agency this 23rd day of January, 2015.


Secretary

(SEAL)