

A regular meeting of the County of Chautauqua Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at the SUNY Incubator, 214 Central Avenue, City of Dunkirk, County of Chautauqua, New, on September 24, 2019, at 10:00 A.M., local time.

The meeting was called to order by the Michael Metzger and, upon roll being called, the following members of the Agency were:

PRESENT:

Michael Metzger	Chairman
Hans Auer	Treasurer
Gary Henry	Secretary
Steven Thorpe	Member
Mark Odell	Member
Brad Walters	Member
Kelly Farrell-Dubois	Member

NOT PRESENT:

Dennis Rak	Vice Chairman
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THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Mark Geise	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Linda Burns	CCIDA Staff
Carol Rasmussen	CCIDA Staff
Kristine Morabito	CCIDA Staff
Milan K. Tyler, Esq.	Counsel
Greg Peterson	Counsel
Maria Assalone	RSM
Tom Anderson	Wells/Blue Bunny
Mayor Willie Rosas	Mayor, City of Dunkirk
Marsha Beach	City of Dunkirk
Rebecca Wurster	City of Dunkirk
John D'Agostino	Observer

The attached resolution no. 09-24-19-02 was offered by Mark Odell, seconded by Kelly Farrell-Dubois:

Resolution No. 09-24-19-02

**RESOLUTION TAKING OFFICIAL ACTION TOWARD AND APPROVING THE
STRAIGHT LEASE DOCUMENTS FOR A CERTAIN PROJECT FOR
WELLS ENTERPRISES, INC. ("WELLS") AND
FIELDBROOK FOODS CORPORATION ("FIELDBROOK")**

WHEREAS, the County of Chautauqua Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the Laws of 1969 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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 industrial, manufacturing, warehousing, commercial, research and recreation 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, Wells (sometimes referred to herein as the "Applicant") presented an application for financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in approximately 23 parcels of land aggregating approximately 18.3 acres located at 1 Ice Cream Drive, City of Dunkirk, County of Chautauqua, New York (the "Existing Land"), (2) the renovation of the existing approximately 234,000 square foot building located on the Existing Land (collectively, the "Existing Building" and together with the Existing Land, collectively, the "Existing Facility"), together with related improvements to the Existing Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the "Existing Facility Equipment") necessary for the completion thereof (collectively, the "Existing Project Facility"), all of the foregoing for use by the Applicant and/or its affiliates as a manufacturing facility; (B)(1) the acquisition of an interest in an approximately 2.9 acre parcel of land located at 115 West Doughty Street Extension, City of Dunkirk, County of Chautauqua, New York (the "New Land" and together with the Existing Land, the "Land"), (2) the construction and installation of a power substation and related improvements on the New Land (collectively, the "New Improvements" and together with the New Land, the "New Facility;" the Existing Facility and the New Facility are referred to herein collectively as the "Facility"), and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the "New Facility Equipment" and together with the Existing Facility Equipment, the "Equipment") necessary for the completion thereof (collectively, the "New Project Facility" and

together with the Existing Project Facility, the "Project Facility"), all of the foregoing for use by the Applicant and/or its affiliates in connection with the operation of the Existing Project Facility; (C) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes and sales and use taxes (collectively, the "Financial Assistance"); and (D) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, Wells has designated Fieldbrook to be the owner of the Existing Project Facility, the owner of the New Facility Equipment, and the recipient of the Financial Assistance with respect to the foregoing and the Agency is prepared to approve such designation; and

WHEREAS, in accordance with Section 859-a of the Act, any approval of the Project is contingent upon, inter alia, a determination by the members of the Agency to proceed with the Project following a determination by the Agency that (A) the public hearing and notice requirements and other procedural requirements contained in the Act relating to the Project have been satisfied; and (B) the undertaking of the Project by the Agency and the granting of the Financial Assistance are and will be in compliance with all other applicable requirements of the Act, SEQRA (as hereinafter defined), and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project (collectively, the "Applicable Laws"); and

WHEREAS, the Administrative Director/CEO of the Agency, (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the "Public Hearing") to hear all persons interested in the Project and the Financial Assistance contemplated by the Agency with respect to the Project, to be mailed on September 6, 2019 to the chief executive officer of the County of Chautauqua, New York (the "County") and of each other affected tax jurisdiction within which the Project Facility is or is to be located, and posted a copy of the Application on the Agency's website; (B) caused notice of the Public Hearing to be published on September 10, 2019 in the *Observer*, a newspaper of general circulation available to residents of the City of Dunkirk and the County; (C) caused the Public Hearing to be conducted on September 19, 2019 at 9:00 am, local time, at the Fredonia Technology Incubator, 214 Central Avenue, City of Dunkirk, County of Chautauqua, New York; and (D) caused a written report of the Public Hearing to be prepared which fairly summarizes the views presented at the Public Hearing and collected written correspondence from the public (collectively, the "Report") and distributed the Report 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 adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (the "Regulations" and collectively with the SEQR Act, "SEQRA"), the appropriate personnel of the Agency reviewed the environmental assessment form and other materials submitted by the Applicant and made any necessary comments to the members of the Agency, and by resolution of the members of the Agency adopted immediately prior to the adoption hereof, the Agency decided to conduct an uncoordinated review of the Project and determined

that the Project will not have a significant adverse environmental impact and that an environmental impact statement will not be prepared; and

WHEREAS, the Agency now desires to make its determination to proceed with the Project and to grant the Financial Assistance, subject to the terms hereof; and

WHEREAS, Wells and/or Fieldbrook will (A) execute and deliver a certain Company Lease Agreement (the "Company Lease"), pursuant to which Wells will grant to the Agency a leasehold interest in the New Facility; (B) execute and deliver a certain Agency Lease Agreement (Uniform Project Agreement) (the "Agency Lease"), pursuant to which the Agency will grant to Wells a subleasehold interest in the New Facility; (C) execute and deliver a certain Payment in Lieu of Taxes Agreement (the "PILOT Agreement"), (D) execute and deliver a Uniform Project Agreement (the "Project Agreement"); and (D) execute and deliver certain other certificates, documents, instruments and agreements related to the Project (together with the Company Lease, the Agency Lease, the PILOT Agreement and the Project Agreement, collectively, the "Transaction Documents");

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

Section 1. The Agency has reviewed the Application and the Report and, based upon the representations made by Wells and Fieldbrook (together, the "Company") to the Agency and information obtained by the Agency, the Agency has reviewed and assessed all material information necessary to afford a reasonable basis for the Agency to make a determination to approve the Financial Assistance. In addition, the Agency hereby makes the following findings and determinations with respect to the Project:

(a) based on the proposed use of the Project Facility as set forth in the Application, the economic effects of the Project on the area in which it is situated, and the employment reasonably expected to be created and/or maintained by the Project, and an analysis of how the Project contributes to the realization of the public purposes of promoting employment opportunities in the County and the prevention of economic deterioration in the County, the Project will constitute a commercial facility with a significant impact on the area in which it is situated, and will advance the Agency's purposes by promoting employment opportunities and preventing economic deterioration in the County. Therefore, the Project constitutes a "project" within the meaning of the Act;

(b) 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 the County;

(c) there is a likelihood that the Project would not be undertaken but for the granting of the Financial Assistance by the Agency to the Company;

(d) the completion of the New Project Facility, the sublease thereof by the Agency to Wells, and the operation thereof by Fieldbrook will not result in the removal

of a facility or plant of Wells, Fieldbrook or any other occupant or user of the New Project Facility from one area of the State of New York (the "State") to another area of the State or in the abandonment of one or more plants or facilities of Wells, Fieldbrook or any other occupant or user located within the State (but outside of the County).

Therefore, the provisions of subdivision (1) of Section 862 of the Act are not and will not be violated as a result of the granting of the Financial Assistance by the Agency to the Company;

(e) the completion of the Existing Project Facility and the operation thereof by Fieldbrook will not result in the removal of a facility or plant of Fieldbrook or any other occupant or user of the Existing Project Facility from one area of the State of New York (the "State") to another area of the State or in the abandonment of one or more plants or facilities of Fieldbrook or any other occupant or user located within the State (but outside of the County). Therefore, the provisions of subdivision (1) of Section 862 of the Act are not and will not be violated as a result of the granting of the Financial Assistance by the Agency to Fieldbrook;

(f) the Project will serve the public purposes of the Act by preserving permanent, private sector jobs, and increasing the overall number of permanent, private sector jobs in the State;

(g) no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State, nor shall any funds of the Agency be used for advertising or promotional materials which depict elected or appointed government officials in either print or electronic media;

(h) the Project Facility does not and will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project. For purposes of this finding, retail sales shall mean: (i) sales by a registered vendor under Article 28 of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section 1101 of the New York Tax Law; or (ii) sales of a service to such customers; and

(i) the granting of the Financial Assistance by the Agency with respect to the Project will encourage and assist the Company in undertaking the Project in the County, will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the County and the State and improve their standard of living, and thereby serve the public purposes of the Act.

Section 2. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Administrative Director/CEO, Chief Financial Officer and the staff of the Agency with respect to the Application and the Public Hearing, including, without limitation, (a) those actions required to ensure full compliance with the requirements of the Act, SEQRA and all other Applicable Laws that relate to the Project, and (b) the appointment of the law firm of Phillips Lytle LLP as Counsel to the Agency with respect to all matters in connection with the Project.

Section 3. The Agency hereby determines that the Agency has fully complied with the requirements of the Act, the SEQRA Act, the Regulations and all other Applicable Laws that relate to the Project.

Section 4. Having considered fully all comments received at or in connection with the Public Hearing, including correspondence received subsequent to the Public Hearing, the Agency hereby further determines to proceed with the Project and the granting of the Financial Assistance, subject to the terms hereof. The Agency hereby approves the granting of (a) an exemption from real property taxes having an estimated value of \$1,934,991, and (c) an exemption from sales and use taxes in the maximum amount of \$5,220,000. Furthermore, the Agency approves the designation of Fieldbrook as the owner of the Existing Project Facility, the owner of the New Facility Equipment, and the recipient of the Financial Assistance with respect to the foregoing.

Section 5. The Agency recognizes that due to the complexities of the proposed transaction it may become necessary that certain of the terms approved hereby may require modifications from time to time which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman, Vice Chairman, Administrative Director/CEO and Chief Financial Officer of the Agency, acting individually or jointly, to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution, but may include adjustments to the Financial Assistance granted hereunder. The approval of such modifications shall be evidenced by the certificate of determination of an Agency officer or the execution and delivery by some or all such Agency officers of relevant documents containing such modified terms.

Section 6. The Agency is hereby authorized to (a) acquire an interest in the Project Facility pursuant to the Company Lease, the Project Agreement and the other Transaction Documents, (b) grant a subleasehold interest in the New Project Facility pursuant to the Agency Lease and the other Transaction Documents, (c) grant the Financial Assistance, and (d) do all things necessary, convenient or appropriate for the accomplishment thereof. All acts heretofore taken by the Agency with respect to the foregoing are hereby approved, ratified and confirmed.

Section 7. The form and substance of the Transaction Documents, in the forms presented to the members of the Agency, together with such changes as the Chairman, the Vice Chairman, the Administrative Director/CEO or the Chief Financial Officer may hereafter deem necessary or appropriate, are hereby approved. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer are hereby authorized, on behalf of the Agency, acting together or individually, to execute and deliver the Transaction Documents to

which the Agency is a party 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. The execution and delivery of each such agreement, approval and consent by such person(s) shall be conclusive evidence of such approval.

Section 8. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are hereby further authorized, on behalf of the Agency, acting together or individually, to designate any additional Authorized Representatives (as defined in the Agency Lease) of the Agency.

Section 9. The officers, employees and agents of the Agency are hereby authorized and directed, acting individually or jointly, 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 Transaction Documents, to execute and deliver all such additional certificates, instruments, agreements 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, convenient or appropriate to effect the purposes of this Resolution and to cause compliance with all of the terms, covenants and provisions of the Transaction Documents to which the Agency is a party or which are binding on the Agency.

Section 10. The members of the Agency acknowledge the terms and conditions of Section 875(3) of the Act and the duties and obligations of the Agency thereunder with respect to granting of State Sales and Use Taxes (as such term is defined in Section 875 of the Act) with respect to the Project. The members hereby direct the officers of the Agency to comply with such terms and conditions with respect to the Project and hereby direct Counsel to the Agency to include such terms and conditions in all relevant Transaction Documents.

Section 11. The Chairman, the Vice Chairman, the Administrative Director/CEO and the Chief Financial Officer of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 12. 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:

Michael Metzger	VOTING
Dennis Rak	ABSENT
Hans Auer	VOTING
Gary Henry	VOTING
Steven Thorpe	VOTING
Mark Odell	VOTING
Brad Walters	VOTING
Kelly Farrell-DuBois	VOTING

The foregoing Resolution was thereupon declared duly adopted.

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

We, the undersigned (Asst.) Secretary and (Vice) Chairman of the County of Chautauqua Industrial Development Agency (the "Agency"), do hereby certify that we 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 24, 2019, with the original thereof on file in the Agency's office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

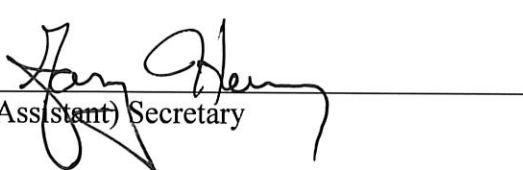
WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said 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.

WE 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, we have hereunto set our respective hands and affixed the seal of the Agency this 24th day of September, 2019.



(Vice) Chairman



(Assistant) Secretary

(SEAL)

