

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
FIRST AMENDMENT TO INDUCEMENT RESOLUTION**

**ROSINA FOOD PRODUCTS, INC., AND/OR INDIVIDUAL(S) OR AFFILIATE(S),  
SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS  
BEHALF**

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, December 16, 2020 at 12:00 p.m.

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

**FIRST AMENDMENT TO INDUCEMENT RESOLUTION OF THE ERIE  
COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE  
APPROVAL OF AN INCREASE IN THE MORTGAGE TAX EXEMPTION  
BENEFIT WITH RESPECT TO THE ROSINA FOOD PRODUCTS, INC.  
PROJECT (AS MORE FULLY DESCRIBED BELOW)**

**WHEREAS**, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 293 of the Laws of 1970 of the State of New York, as amended (collectively, the “Act”), the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the “Agency”) was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing, commercial and other facilities as authorized by the Act; and

**WHEREAS**, ROSINA FOOD PRODUCTS, INC., AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (the “Company”) submitted an application to the Agency (the “Application”) requesting the Agency’s assistance with a certain project (the “Original Project”) consisting of: (i) a portion of a vacant parcel of land located at 3100 Clinton Street, Town of West Seneca, Erie County, New York (the “Land”); (ii) the construction and equipping of a 105,000+/- SF protein manufacturing plant including the installation of a new high speed, state-of-the-art production line (the “Improvements”); and (iii) the acquisition and installation by the Company of certain items of machinery, equipment and other tangible personal property (the “Equipment”, and collectively with the Land and the Improvements, the “Facility”); and

**WHEREAS**, pursuant to General Municipal Law Section 859-a, on August 20, 2019 at 9:00 a.m. at the Town of West Seneca Community Center & Library located at 1300 Union Road (Community Room), West Seneca, NY 14224, the Agency held a public hearing with respect to the Project and the proposed Financial Assistance (as hereinafter defined) being contemplated by the Agency (the “Public Hearing”) whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views; and

**WHEREAS**, by resolution adopted on October 23, 2019 (the "Original Resolution") the Agency determined that the Original Project will not have a “significant effect on the environment” as such quoted term is defined under Article 8 of the New York Environmental Conservation Law and the regulations promulgated thereto in 6 N.Y.C.R.R. Part 617

(collectively referred to as or “SEQR”), that no “environmental impact statement” as such quoted term is defined in SEQR, need be prepared for this action, and issued a Negative Declaration pursuant to 6 N.Y.C.R.R. § 617.7 of the SEQR regulations with respect to the Original Project, and further authorized financial assistance to the Company with respect to the Original Project in the form of (a) an exemption benefit from all New York State and local sales and use taxes for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction, reconstruction and/or renovation, rehabilitation or equipping of the Facility (b) a mortgage recording tax exemption benefit for the financing related to the Project, and (c) a partial abatement from real property taxes benefit through a ten (10) year term PILOT Agreement for the benefit of each municipality and school district having taxing jurisdiction over the Project (collectively, the sales and use tax exemption benefit, the mortgage recording tax exemption benefit, and the partial abatement from real property taxes benefit, are hereinafter referred to as the “Financial Assistance”); and

**WHEREAS**, the Agency received notification from the Company dated December 1, 2020 (the “Notification”) informing the Agency that the estimated mortgage amount has increased from \$28,000,000 to \$39,500,000 and requesting that the Agency increase the mortgage recording tax exemption benefit amount from \$210,000 to \$296,250 (the “Increased MRT Exemption Benefit Amount”); and

**WHEREAS**, the requested Increased MRT Exemption Benefit Amount shall not exceed \$100,000, until a Public Hearing is held, if at all, and a subsequent resolution is passed pursuant to General Municipal Law Section 859-a; and

**WHEREAS**, as a result of the Notification, the Agency wishes to amend the Original Resolution by authorizing this certain First Amendment To Inducement Resolution to authorize the Increased MRT Exemption Benefit Amount.

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

Section 1. All recitals, findings and determinations of the Agency contained in the Original Resolution and this First Amendment To Inducement Resolution are hereby reaffirmed, ratified, restated and incorporated herein by reference as if set forth herein in their entirety, except as modified by this First Amendment To Inducement Resolution.

Section 2. With respect to the foregoing, and based upon the representations and warranties made by the Company with respect to its requested Increased MRT Exemption Benefit Amount, the Agency hereby authorizes and approves the Increased MRT Exemption Benefit Amount with respect to the Project.

Section 3. Based upon the foregoing, the Agency hereby amends Section 3 of the Original Resolution in its entirety to read as follows:

Section 3. Subject to the Company executing an Agent Agreement and the delivery to the Agency of a binder, certificate or other evidence of insurance for the

Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct and/or renovate and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; provided, however, the appointment of the Company as agent of the Agency, if utilized, shall expire one year from the date of this resolution (unless extended for good cause by the Chair, the Vice Chair, the President/Chief Executive Officer, the Executive Vice President, the Chief Financial Officer/Treasurer, and/or the Assistant Treasurer).

A. Financial Assistance. With respect to the foregoing, and based upon the representations and warranties made by the Company in its application for Financial Assistance and as requested within the Notification, the Agency hereby:

(i) authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount estimated up to \$16,500,000.00, and, therefore, the value of the sales and use tax exemption benefits ("sales and use tax exemption benefits") authorized and approved by the Agency cannot exceed \$1,443,750.00, however, the Agency may consider any requests by the Company for increases to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services; and

(ii) authorizes and approves that the value of the mortgage recording tax exemption benefit ("mortgage recording tax exemption benefits") shall not exceed \$296,250.00; and

(iii) authorizes and approves that the real property tax abatement benefits ("PILOT benefits") to be provided over the term of the PILOT Agreement are estimated to be approximately \$1,325,599.00, resulting in estimated total PILOT payments of \$352,375.00 over the term of the PILOT Agreement.

B. Terms and Conditions of Financial Assistance. Pursuant to Section 875(3) of the New York General Municipal Law, and per the policies of the Agency, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any New York State and local sales and use tax exemption benefits, and/or mortgage recording tax exemption benefits, and/or partial abatements from real property taxes benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any

other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the New York State and local sales and use tax exemption benefits; (ii) the New York State and local sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the New York State and local sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; (iv) the Company has made a material false statement on its application for Financial Assistance; (v) the New York State and local sales and use tax exemption benefits and/or mortgage recording tax exemption benefits, and/or the partial abatement from real property taxes benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with the Investment Commitment, the Employment Commitment, and/or the Local Labor Commitment, said commitments, as described below, being a material term or condition to use property or services in the manner approved by the Agency in connection with the Project; and/or (vi) the New York State and local sales and use tax exemption benefits, and/or mortgage recording tax exemption benefits, and/or the partial abatement from real property taxes benefits are taken in cases where the Company fails to comply with the Equal Pay Commitment and/or the Unpaid Real Property Tax Policy Commitment, as described below, being a material term or condition to use property or services in the manner approved by the Agency in connection with the Project.

As a condition precedent of receiving Financial Assistance, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, must cooperate with the Agency in its efforts to recover or recapture any Financial Assistance, and promptly pay over any such amounts to the Agency that the Agency demands.

(C) Commitments. As an additional condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it must, subject to potential modification, termination and/or recapture of Financial Assistance for failure to meet and maintain the commitments and thresholds as described below, submit, on an annual basis or as otherwise indicated below through the termination PILOT Agreement, a certification, as so required by the Agency, confirming:

- (i) Investment Commitment – the total investment actually made with respect to the Project at the time of Project completion equals or exceeds \$49,300,000.00 (which represents the product of 85% multiplied by \$58,000,000.00, being the total project cost as stated in the Company’s application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 100 existing full time equivalent (“FTE”) employees located at, or to be located at, the Facility

as stated in the Company's application for Financial Assistance (the "Baseline FTE"); and

- the number of current FTE employees in the then current year at the Facility; and
  - that the Company has maintained and created FTE employment at the Facility equal to 134 FTE employees within two (2) years of Project completion [representing the sum of the 100 Baseline FTE plus 34, the product of 85% multiplied by 40, (being the total number of new FTE employee positions as proposed to be created by the Company as stated in the Company's application for Financial Assistance)]. In an effort to confirm and verify the Company's employment numbers, the Agency requires that, at a minimum, the Company provide employment data on a quarterly basis to the Agency, said information to be provided on the Agency's "Quarterly Employment Survey" form to be made available to the Company by the Agency.
- (iii) Local Labor Commitment – that the Company adheres to and complies with the Agency's Local Labor Workforce Certification Policy on a quarterly basis during the construction period.
- (iv) Equal Pay Commitment – that the Company adheres to and complies with the Agency's Pay Equity Policy.
- (v) Unpaid Real Property Tax Policy Commitment – that the Company is compliant with the Agency's Unpaid Real Property Tax Policy.

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. All actions heretofore undertaken by the Agency and the Company, as agent of the Agency, are ratified and approved and the Agency and the Company, as agent of the Agency, are hereby authorized to continue to undertake the Project.

Section 6. These Resolutions shall take effect immediately.

Dated: December 16, 2020