

RESOLUTION OF THE TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE FACILITY AND TAKING OFFICIAL ACTION AUTHORIZING THE EXECUTION, DELIVERY AND PERFORMANCE OF AGREEMENTS AND TAKING OF CERTAIN OTHER ACTION PERTAINING TO THE FACILITY FOR RPMV REALTY LLC AND/OR CRESTWOOD FARMS, INC., CRESTWOOD DISTRIBUTION LLC, NORTH SHORE DAIRY, INC., WHEY HOME INC., GREAT AMERICAN DAIRY INC., LONG ISLAND FARMS INC. AND/OR ANY OF THE PRINCIPALS OF RPMV REALTY LLC AND/OR CRESTWOOD FARMS, INC., CRESTWOOD DISTRIBUTION LLC, NORTH SHORE DAIRY, INC., WHEY HOME INC., GREAT AMERICAN DAIRY INC., LONG ISLAND FARMS INC. AND/OR OTHER ENTITY TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING, INCLUDING APPOINTING RPMV REALTY LLC AND/OR CRESTWOOD FARMS, INC., CRESTWOOD DISTRIBUTION LLC, NORTH SHORE DAIRY, INC., WHEY HOME INC., GREAT AMERICAN DAIRY INC., LONG ISLAND FARMS INC. AND/OR ANY OF THE FOREGOING PERSONS AND/OR ENTITIES AS AGENT OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, RENOVATING AND EQUIPPING A COMMERCIAL FACILITY.

WHEREAS, the Town of Brookhaven Industrial Development Agency (the “Agency”) was created by Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 358 of the Laws of 1970 of the State of New York (collectively, the “Act”), with the authority and power to, among other things, acquire, construct, renovate and equip a project, provide financial assistance, and mortgage, lease, grant options with respect to and dispose of property; and

WHEREAS, RPMV REALTY LLC, a New York limited liability company on behalf of itself and/or the principals of RPMV REALTY LLC (the “Company”), and CRESTWOOD FARMS, INC., a New York business corporation, CRESTWOOD DISTRIBUTION LLC, a New York limited liability company, NORTH SHORE DAIRY, INC., a New York business corporation, WHEY HOME INC., a New York business corporation, GREAT AMERICAN DAIRY INC., a New York business corporation, and LONG ISLAND FARMS INC., a New York business corporation, on behalf of themselves and/or their principals and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the “Sublessees”), have submitted to the Agency a proposal for the Agency (the “Project”) (a) to assist with (i) the acquisition of an approximately 1.433 acre parcel of land located at 32 Sawgrass Drive, Bellport, Town of Brookhaven, Suffolk County, New York (and further identified as Tax Map No. 200-843-2-26.008) (the “Land”), and the renovation of the approximately 12,000 square foot building located thereon (the “Improvements”), and the acquisition and installation therein of certain equipment not part of the Equipment (as defined herein)(the “Facility Equipment”; together with the Land and Improvements, the “Company

Facility”), to be initially leased by the Agency to the Company and further subleased by the Company to the Sublessees, (ii) assist with the acquisition and installation therein of certain equipment and personal property (the “Equipment”), which Equipment is to be leased by the Agency to the Sublessees (the Company Facility and the Equipment are collectively referred to herein as the “Facility”), which Facility is to be used by the Sublessees for distribution of milk and food products, (b) to grant mortgage liens thereon and security interests therein, and (c) to provide financial assistance within the meaning of the Act, including the following as they relate to the appointment of the Company or the Sublessees as agents of the Agency with respect to the acquisition, renovation and equipping of the Facility, whether or not any materials or supplies described below are incorporated into or become an integral part of the Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with the acquisition, renovation and equipping of the Facility, (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with the acquisition, renovation and equipping of the Facility, and (iii) all purchases, leases, rentals and uses of equipment, machinery and other tangible personal property (including installation costs with respect thereto) installed or placed in, upon or under the Facility; and

WHEREAS, the Act authorizes and empowers the Agency to acquire, renovate, construct, equip, promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general property and economic welfare of the people of the State of New York; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company and the Sublessees, consistent with the policies of the Agency, in the form of (i) exemptions from mortgage recording taxes on mortgages securing an aggregate principal amount presently estimated to be \$1,255,500.00 but not to exceed \$1,500,000.00, in connection with the financing of the acquisition, renovation and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, constructing, renovating, and equipping of the Facility, (ii) exemptions from sales and use taxes on the acquisition, renovation and equipping of the Company Facility, including fixtures, furniture and equipment to be installed in the Company Facility or in connection with the purchase of equipment, building materials, services or other personal property part of or to become part of the Company Facility, in an amount not to exceed \$5,000.00, (iii) exemptions from sales and use taxes on the acquisition and installation of the Equipment, including building materials, services or other personal property, in an amount not to exceed \$10,000.00, and (iv) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit A hereof), all consistent with the policies of the Agency; and

WHEREAS, the Agency contemplates it will acquire a leasehold interest in the Land and Improvements under a certain Company Lease Agreement (the “Company Lease Agreement”), by and between the Company and the Agency, for a term of approximately ten (10) years, and sublease the Company Facility to the Company under a certain Lease Agreement (the “Lease Agreement”), by and between the Agency and the Company, for a term of approximately ten (10) years; and

WHEREAS, the Company will sub-sublease the Company Facility to the Sublessees under a certain Sublease (the “Sublease”), by and between the Company and the Sublessees; and

WHEREAS, the Agency contemplates the Agency will lease the Equipment to the Sublessees under a certain Equipment Lease Agreement (the “Equipment Lease Agreement”), by and between the Agency and the Sublessees, for a term of approximately one (1) year; and

WHEREAS, the Agency contemplates the Agency, the Company and the Sublessees will enter into a certain Payment-In-Lieu-of-Tax Agreement (the “PILOT Agreement”) in order to define the Company’s and the Sublessees’ obligations regarding payments in lieu of taxes with respect to the Facility; and

WHEREAS, the Agency contemplates the Agency, the Company and the Sublessees will enter into a certain Recapture Agreement (the “Recapture Agreement”) in order to provide assurances with respect to the recapture of certain benefits granted under or by virtue of the PILOT Agreement, the Lease Agreement, the Equipment Lease Agreement and other agreements, including mortgage recording tax exemptions; and

WHEREAS, the Agency contemplates the Agency, the Company, the Sublessees and others will enter into a certain Agency Compliance and Guaranty Agreement (the “Agency Compliance and Guaranty Agreement”) in order to provide assurances to the Agency with respect to the Company’s and the Sublessees’ obligations to the Agency and compliance with environmental laws; and

WHEREAS, in order to finance a portion of the costs of the Project, the Company and the Sublessees anticipate either or both of them may obtain loans from a lender or lenders (collectively, the “Bank”) and in order to secure the obligations of the Company and/or the Sublessees and/or others to the Bank, the Agency contemplates that, at the request of the Company and/or the Sublessees, the Agency, the Company and/or the Sublessee and/or or others will execute and deliver a mortgage or mortgages or a security agreement or security agreements in favor of the Bank, including replacements, substitutions, extensions and additions to such mortgage(s) and security agreement(s)), with a limitation of the Agency’s liability thereunder (collectively, the “Mortgage”) for the purpose of subjecting Agency’s interest in the Company Facility and/or the Equipment to the lien of the Mortgage; and

WHEREAS, a public hearing (the “Hearing”) was held on June 10, 2015, so that all persons with views in favor of, or opposed to either the financial assistance contemplated by the Agency or the location or nature of the facility, could be heard; and

WHEREAS, notice of the Hearing was given more than ten days prior thereto, such notice (together with proof of publication) having been filed with the records of this Agency; and

WHEREAS, the minutes of the Hearing having been filed with the records of this Agency; and

WHEREAS, the Agency has given due consideration to the application of the Company and the Sublessees and to the representations by the Company and the Sublessees that the proposed transfer of real estate is either an inducement to the Company and the Sublessees to maintain or expand the Facility in the Town of Brookhaven or is necessary to maintain the competitive position of the Company and the Sublessees in their industry; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted thereto by the Department of Environmental Conservation of the State of New York (collectively, the “SEQR Act” or “SEQRA”), the Agency constitutes a “State Agency”; and

WHEREAS, to aid the Agency in determining whether the Facility may have a significant effect upon the environment, the Company and the Sublessees have prepared and submitted to the Agency and Environmental Assessment Form and related documents (the “Questionnaire”) with respect to the Facility, a copy of which is on file at the office of the Agency; and

WHEREAS, the Questionnaire has been reviewed by the Agency.

NOW, THEREFORE, BE IT RESOLVED by the Town of Brookhaven Industrial Development Agency (a majority of the members thereof affirmatively concurring) that:

Section 1. Based upon the Environmental Assessment Form completed by the Company and/or the Sublessees and reviewed by the Agency and other representations and information furnished by the Company and/or the Sublessees regarding the Facility, the Agency determines that action relating to the acquisition, renovation, equipping and operation of the Facility is a “Unlisted” action, as that term is defined in the State Environmental Quality Review Act (“SEQRA”) (Article 8 of the Environmental Conservation Law). The Agency, as of the date of this resolution, determines that the action will not have a “significant effect” on the environment and, therefore, an environmental impact statement will not be required. This determination constitutes a negative declaration for the purposes of SEQRA. Notice of this determination shall be filed to the extent required by the applicable regulations under that Act or as may be deemed advisable by the Chairman, Chief Executive Officer of the Agency or counsel to the Agency.

Section 2. The Agency hereby finds and determines:

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; and

b. The Facility constitutes a “project”, as such term as defined in the Act; and

c. The leasing of the Land and Improvements by the Agency from the Company, the acquisition, renovation and equipping of the Company Facility, the leasing of the Company Facility to the Company, the subleasing of the Company Facility by the Company to the Sublessees, the acquisition and installation of the Equipment, the leasing of the Equipment to the Sublessees, the providing of financial assistance to the Company and the Sublessees within the meaning of the Act, and the granting of mortgages on, and security interests in, the Facility, will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the Town of Brookhaven and the State of New York and improve their standard of living and thereby serve the public purposes of the Act;

d. Based upon the representations of the Company and the Sublessees:

i the Facility conforms with the local zoning laws and planning regulations of the Town of Brookhaven and all regional and local use plans for the area in which the Facility is located; and

ii The Facility and the operations conducted therein will not cause or result in the violation of the health, labor or other laws of the United States of America, the State of New York, or the Town of Brookhaven; and

iii The Agency approves the location of the site of the Facility; and

iv The financial assistance of the Agency and the transactions contemplated hereby are reasonably necessary to induce the Company and the Sublessees to maintain and expand their operations within the State of New York, and to preserve the competitive positions of the Company and the Sublessees, and shall not result in the removal of a facility or plant of the Company or any of the Sublessees from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the Company or any of the Sublessees located within the State except, as set forth in the Company's and the Sublessees' application, for the purpose of discouraging the Company or the Sublessees from removing such other plant or facility to a location outside the State or to preserve the competitive position of the Company and the Sublessees in their industry; and

v The Facility shall not be used for retail sales.

Section 3. The Agency shall, in furtherance of the purposes of the Act, lease the Land and Improvements from the Company, acquire, renovate, equip, repair and maintain the Facility, lease the Company Facility to the Company, authorize the Company to sublease the Company Facility to the Sublessees, lease the Equipment to the Sublessees, and grant mortgage lien(s) and security interest(s) in the Facility.

Section 4. The Agency hereby authorizes and approves of the following economic benefits to be granted or inure to the benefit of the Company and the Sublessees: (i) exemptions from mortgage recording taxes on mortgages securing an aggregate principal amount

presently estimated to be \$1,255,500.00 but not to exceed \$1,500,000.00, in connection with the financing of the acquisition, renovation and equipping of the Facility and any future financing, refinancing or permanent financing of the costs of acquiring, constructing, renovating, and equipping of the Facility, (ii) exemptions from sales and uses taxes in an exemptions from sales and use taxes on the acquisition, renovation and equipping of the Company Facility, including fixtures, furniture and equipment to be installed in the Company Facility or in connection with the purchase of equipment, building materials, services or other personal property part of or to become part of the Company Facility, in an amount not to exceed \$5,000.00, (iii) exemptions from sales and use taxes on the acquisition and installation of the Equipment, including building materials, services or other personal property, in an amount not to exceed \$10,000.00, and (iv) abatement of real property taxes (as set forth in the PILOT Schedule attached as Exhibit A hereof), consistent with the policies of the Agency.

Section 5. Subject to, and conditioned upon, the execution and delivery of, and the acceptance by the Agency of, the Company Lease Agreement, Lease Agreement, the Equipment Lease Agreement, the PILOT Agreement, the Recapture Agreement, the Agency Compliance and Guaranty Agreement, and such other documents as may be required by the Agency, and the closing of the transactions contemplated hereby and thereby, the Company and the Sublessees are hereby appointed the true and lawful agents of the Agency to acquire, renovate and equip the Facility, and are authorized to delegate their status as agents of the Agency to the Company's or the Sublessee's agents, subagents, contractors, subcontractors, suppliers, vendors and other parties as the Company or Sublessees may choose for the purpose of acquiring, renovating, or equipping the Facility. The appointment described above includes the following activities as they relate to the acquiring, renovating and equipping of the Facility, whether or not the materials, services or supplies described below are incorporated into or become an integral part of the Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with acquiring, renovating and equipping the Facility, (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description in connection with acquiring, renovating and equipping the Facility, and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs with respect thereto), installed or placed in, upon or under the Facility. This Agency appointment includes the power to make, execute, acknowledge and deliver any contracts, orders receipts writings and instructions, as the stated agents for the Agency, and in general to do all things which may be requisite or proper for completing the Facility, all with the same powers and with the same validity as the Agency could do if acting on its own behalf. The appointment hereunder shall expire upon the earliest of (a) June 30, 2016, (b) completion of the initial acquisition, renovation and equipping of the Facility, and (c) the date on which the Company has realized exemptions from sales and use taxes by reason of the Agency's participation in the Project in an aggregate amount of \$5,000.00 or more, or the date on which the Sublessees have collectively realized exemptions from sales and use taxes by reason of the Agency's participation in the Project in an aggregate amount of \$10,000.00 or more, or the date on which the aggregate exemptions from sales and use taxes realized by reason of the Agency's participation in the Project equals or exceeds \$15,000.00; provided however, such appointments may be extended and the amounts of the exemptions may be increased at the sole discretion of the Agency, upon the written request of the Company or the Sublessees, if such activities and improvements are not completed by such time or the additional sales and uses tax exemptions are

necessary. The aforesaid agency appointments expressly exclude the Company and the Sublessees from purchasing motor vehicles, including any cars, trucks, vans or buses which are licensed by the Department of Motor Vehicles for use on public highways or streets.

Section 6. The Chairman, Chief Executive Officer and/or any other member of the Agency are hereby authorized and directed to, on behalf of and in the name of the Agency, execute, deliver and perform a Company Lease Agreement, Lease Agreement, Equipment Lease Agreement, PILOT Agreement, Recapture Agreement, Agency Compliance and Guaranty Agreement, Mortgage (including replacements, substitutions, extensions and additions to such Mortgage) with a limitation of the Agency's liability thereunder, and other instruments, as above contemplated and in such form and containing such terms, conditions and provisions as the person executing same on behalf of the Agency shall deem necessary or desirable, and shall approve, such necessity, desirability, and approval, to be conclusively evidenced by his or her execution and delivery thereof.

Section 7. The Company and the Sublessees hereby agree to comply with Section 875 of the Act. The Company and the Sublessees further agree that the exemption of sales and use tax provided pursuant to the Act and the appointment of the Company and Sublessees as agent of the Agency pursuant to this resolution is subject to termination and recapture of benefits pursuant to Section 875 of the Act and the Recapture Agreement.

Section 8. Weinberg Gross & Pergament LLP are hereby appointed Transaction Counsel to the Agency, and is authorized and directed to work with Counsel to the Company, Sublessees and others, to prepare, for submission to the Agency, all documents necessary to effect the transaction described in these resolutions.

Section 9. Any and all acts, instruments, and other writings heretofore or hereafter performed and/or executed and delivered by any one or more of the Chairman, Chief Executive Officer or any member of the Agency, pursuant to the several foregoing resolutions, for and on behalf of and in the name of the Agency, in connection with the transactions contemplated thereby, be and the same hereby are, in all respects ratified, confirmed and approved.

Section 10. The documents, including the proposed Company Lease Agreement, Lease Agreement, Equipment Lease Agreement, PILOT Agreement, Recapture Agreement, Agency Compliance and Guaranty Agreement and Mortgage, promptly following the execution, and delivery thereof, be identified by any of the Chairman, Chief Executive Officer or any member of the Agency by his or her endorsement thereon and when so identified be filed with the official records of the Agency.

Section 11. The Chairman, Chief Executive Officer, Counsel to the Agency or any member of the Agency are hereby authorized and directed (i) to distribute copies of this resolution to the Company and the Sublessees and (ii) 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.

EXHIBIT A

PROPOSED PILOT BENEFITS ARE FOR DISCUSSION PURPOSES ONLY
AND HAVE NOT APPROVED BY THE AGENCY BOARD.

June ____, 2015

YEAR	PILOT Amount	Tax w/out IDA	Tax Savings
2016/2017	\$9,635.00	\$19,270.00	\$9,635.00
2016/2017	\$9,635.00	\$19,270.00	\$9,635.00
2017/2018	\$9,825.00	\$19,650.00	\$9,825.00
2018/2019	\$10,025.00	\$20,050.00	\$10,025.00
2019/2020	\$10,225.00	\$20,450.00	\$10,225.00
2020/2021	\$10,430.00	\$20,860.00	\$10,430.00
2021/2022	\$10,635.00	\$21,270.00	\$10,635.00
2022/2023	\$10,850.00	\$21,700.00	\$10,850.00
2023/2024	\$11,065.00	\$22,130.00	\$11,065.00
2024/2025	\$11,290.00	\$22,580.00	\$11,290.00
2025/2026	\$11,515.00	\$23,030.00	\$11,515.00