

AUTHORIZING RESOLUTION
(Ken Wendt's Propane Gas Service, Inc. Project)

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Tuesday, March 29, 2022.

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

Resolution No. 03/2022 - 02

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) AUTHORIZING AN INCREASE IN THE FINANCIAL ASSISTANCE (AS DESCRIBED BELOW) TO BE PROVIDED BY THE AGENCY TO THE COMPANY, (ii) RATIFYING AND CONFIRMING THE FINDINGS OF THE AGENCY MADE IN THE RESOLUTION PREVIOUSLY ADOPTED BY THE AGENCY ON OCTOBER 31, 2019, AND (iii) IF NECESSARY, AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 565 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (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 industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, pursuant to resolution adopted on October 31, 2019 (the "Final Resolution"), the Agency authorized certain Financial Assistance (as defined in the Final Resolution) with respect to a certain project (the "Project") to be undertaken by **KEN WENDT'S PROPANE GAS SERVICE, INC.** (the "Company"), as agent of the Agency, consisting of: (i) the acquisition by the Agency of a leasehold or other interest in certain property located to the east of Route 19 on North Road, in the Town of LeRoy, Genesee County, New York (and, collectively, any lands located in Genesee County and occupied by license or easement during construction or improved by third parties for the benefit of the Project, the "Land"); (ii) the construction of an approximately 9,600 square foot building to house new smaller storage tanks to be installed at residential, commercial, industrial and agricultural customer facilities (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property, including, but not limited to, six (6) 30,000-gallon gas storage tanks (the "Equipment"; and, together with the Land and the Improvements, the "Facility"); and

WHEREAS, the Company further informed the Agency that: (i) the value of goods and services relating to the Project that will be subject to New York State and

local sales and use tax will be in an amount of up to **\$1,200,000.00** (such amount being an increase of \$560,000.00), which will result in New York State and local sales and use tax exemption benefits not to exceed **\$96,000.00** (such amount being an increase of \$44,800.00 and (ii) due to certain delays, is requesting an extension of the Company's right to act as agent of the Agency to **December 31, 2022**; and

WHEREAS, the Agency desires to adopt a resolution (i) authorizing the Company to make purchases of goods and services relating to the Project in the amount of up to **\$1,200,000.00**, which will result in local sales and use tax exemption benefits not to exceed **\$96,000.00**, (ii) authorizing the extension of the Company's right to act as agent of the Agency to **December 31, 2022**, (iii) ratifying and confirming the findings made by the Agency in the Final Resolution adopted, and (iv) if necessary, authorizing the execution and delivery of related documents.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER AS FOLLOWS:

Section 1. Based upon representations and warranties made by the Company, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project, that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$1,200,000.00**, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed **\$96,000.00**. The Agency agrees to 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. Pursuant to Section 875(3) of the New York General Municipal Law, 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 sales and use tax exemption 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 sales and use tax exemption benefits; (ii) the 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 sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the sales and use tax exemption 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 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 sales and use tax exemption benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 2. The right of the Company to act as agent of the Agency shall expire on **December 31, 2022.**

Section 3. Unless amended by the terms hereof, Agency hereby ratifies, confirms and reaffirms the findings made in the Final Resolution and hereby re-approves the Project, as amended, and the Financial Assistance.

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. These Resolutions shall take effect immediately upon adoption.

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

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Peter Zeliff	[X]	[]	[]	[]
Matthew Gray	[X]	[]	[]	[]
Paul Battaglia	[X]	[]	[]	[]
Craig Yunker	[X]	[]	[]	[]
Todd Bender	[X]	[]	[]	[]
Chandy Kemp	[]	[]	[X]	[]
Marianne Clattenburg	[X]	[]	[]	[]

The resolutions were thereupon duly adopted.

SECRETARY'S CERTIFICATION

(Ken Wendt's Propane Gas Service, Inc. Project)

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

I, the undersigned Secretary of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on March 29, 2022, with the original thereof on file in the offices of the Agency, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that 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 modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this 29th day of March, 2022.


Secretary