

Resolution No. 21-20  
Adopted October 18, 2021

Introduced by Mr. Bittel  
who moved its adoption.

Seconded by Mr. Bruno

**RESOLUTION ACCEPTING AN APPLICATION FOR FINANCIAL ASSISTANCE SUBMITTED BY  
BUCKS COUNTY BISCOTTI CO. (THE "COMPANY") RELATING TO A CERTAIN PROJECT;  
AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT; AND DESCRIBING  
THE FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT  
TO THE PROJECT**

WHEREAS, Bucks County Biscotti Co., a business corporation established pursuant to the laws of the State of Pennsylvania, having an address of PO Box 241, Hilltown, Pennsylvania 18927 (the "Company") has requested that the Agency provide financial assistance in the form of a partial real property tax abatement, a sales tax abatement and an exemption for mortgage recording tax regarding a manufacturing and distribution project (the "Project") to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real property located at Lot #7, Casey Road in the Town of Kingsbury, County of Washington, New York and being known as tax map parcel 137.-2-1.8 (the "Land"); (ii) the planning, design, construction, operation and maintenance by the Company of an approximately 5,000+/- square foot facility to be used by the Company for the manufacture and distribution of biscotti (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended; and

WHEREAS, Chapters 356 and 357 of the Laws of 1993 require that prior to granting financial assistance of more than \$100,000.00 to any project, an Agency must (i) adopt a resolution describing the project and the financial assistance contemplated by the Agency with respect thereto, and (ii) hold a public hearing in the city, town or village where the project proposes to locate upon at least ten (10) days published notice and, at the same time, provide notice of such hearing to the Chief Executive Officer of each affected taxing jurisdiction within which the project is located; and

WHEREAS, the Agency is in the process of reviewing and considering the Company's Application requesting the Agency to provide financial assistance for the proposed Project (collectively the "Financial Assistance") in the form of (i) an exemption from all State and local sales and use taxes with respect to qualifying personal property included in and incorporated into the Facility or used in the acquisition, construction or equipping of the Facility; (ii) an exemption from mortgage recording tax on eligible mortgages and (iii) a partial real property tax abatement through a payment in lieu of tax agreement (the "PILOT Agreement"), pursuant to which the Company would make payments in lieu of real property taxes to each affected tax jurisdiction (the "Affected Tax Jurisdictions"), all of which shall be consistent with the uniform tax exemption policy of the Agency; and

WHEREAS, the Agency desires to (i) accept the Application; (ii) authorize the scheduling and conduct of a public hearing; and (iii) negotiate, but not enter into an Agent Agreement and Project Agreement, pursuant to which the Agency will designate the Company as its agent for the purpose of acquiring, constructing and equipping the Project, and Lease Agreement, a Leaseback Agreement and related Payment in lieu of Tax Agreement with the Company.



**NOW, THEREFORE, BE IT RESOLVED:**

1. The Company has presented an Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's Application, the Agency hereby finds and determines that:

- (a) Pursuant to 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 Agency has the authority to take the actions contemplated herein under the Act; and
- (c) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Warren and Washington Counties, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and
- (d) The Project will result in the removal of a commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company, but based on information provided by the Company, including the inability to expand at its current location, lack of workforce at its current location, proximity to transportation options and its desire not to relocate outside of New York, the Agency has determined that the relocation within the State is determined to be reasonably necessary for the Company to maintain its competitive position in the industry and to discourage the Company from relocating the business operations outside of New York.

2. The proposed financial assistance being contemplated by the Agency includes (i) an exemption from all state and local sales and use taxes with respect to the qualifying personal property included within the Project or used in the acquisition, construction or equipping of the Project in the estimated amount of \$49,000.00 based on purchases in the amount of \$700,000.00; (ii) an exemption from mortgage recording tax on eligible mortgages in the estimated exemption amount of \$11,437.00 (ii) a partial real property tax abatement through a PILOT Agreement for a term of 10 years with an 100% exemption of real property taxes on the value of the improvements for years 1 through 5 and a 50% exemption of real property taxes on the value of the improvements for years 6 through 10. The PILOT has an estimated value of \$122,370.00, pursuant to which the Company would make payments in lieu of real property taxes to the Affected Tax Jurisdictions.

The Base Value for the parcel shall be \$41,000.00 for the term of the PILOT.

The estimated total project cost is \$1,021,000.00.

3. The Chairman, Vice Chairman and/or the Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to cause the issuance of public hearing notices, hold a public hearing in compliance with the Act and negotiate (but not execute or deliver) the terms of (A) the Agent Agreement and Project Agreement, whereby the Agency appoints the Company as its agent to undertake the Project, (B) a Lease Agreement whereby the Company leases the Project to the Agency, (C) a related Leaseback Agreement conveying the Project back to the Company, (D) a PILOT Agreement, whereby the Company agrees to make certain payments-in-lieu-of real property taxes and (E) related documents; provided (i) the rental payments under the Agent Agreement and Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project.



4. The Agency is hereby authorized to schedule and conduct a public hearing pursuant to Article 18-A of the General Municipal Law and, if applicable, in accordance with with Legislation S. 50001/A. 40001, amending subpart A of part BB of Chapter 56 of the Law of 2001, via ZOOM on November 3, 2021 at 9:00 am. The Agency hereby further authorizes the publication of a Notice of Public Hearing for the Project in accordance with the Act and the Agency's policies and procedures.

5. This resolution shall take effect immediately

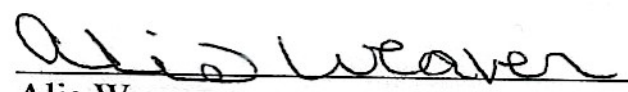
Member	Yes	No	Abstain	Absent
Craig Leggett	x			
Michael Bittel	x			
Brian Campbell	x			
Mike Grasso	x			
Ginny Sullivan	x			
Mike Wild	x			
Dan Bruno	x			
Mary King	x			
Nick Caimano				x
Dave O'Brien	x			
Total	9	0	0	1

The foregoing resolution was thereupon declared duly adopted.

STATE OF NEW YORK       )  
                                      ) SS:  
COUNTY OF WARREN       )

This is to certify that I, Alie Weaver, Records Management Officer for the Counties of Warren and Washington Industrial Development Agency, do hereby certify that the foregoing is a true and correct copy and the whole thereof of a Resolution duly adopted by the Counties of Warren and Washington Industrial Development Agency, Glens Falls, New York on the 18th day of October, 2021.

In witness whereof, I have hereto set my hand and affixed the official seal of the Counties of Warren and Washington Industrial Development Agency on this 18<sup>th</sup> day of October, 2021.

  
Alie Weaver  
Counties of Warren and Washington  
Industrial Development Agency

[SEAL]