

**Authorizing Resolution
Consent to Change of Control
Alder Creek Beverages, LLC Facility**

Date: February 10, 2023

At a meeting of the Oneida County Industrial Development Agency (the "Agency"), held at 584 Phoenix Drive, Rome, New York at 8:00 a.m. on February 10, 2023, the following members of the Agency were:

Members Present: David Grow, Mary Faith Messenger, Kirk Hinman, Steve Zogby

Members Present: WebEx: Mike Fitzgerald, Ferris Betrus, Gene Quadraro

EDGE Staff Present: Tim Fitzgerald, Laura Cohen, Bill Van Shufflin.

EDGE Staff Present: WebEx: Shawna Papale, M. Carney, Mark Kaucher

Other Attendees: Jenna Peppinelli, Levitt & Gordon; Rome Mayor Jackie Izzo.

Other Attendees: WebEx: Mark Levitt, Levitt & Gordon Paul Goldman, Goldman Attorneys PLLC; Linda Romano & Laura Ruberto, Bond, Schoeneck & King

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to the change of control of a certain industrial development facility more particularly described below (Alder Creek Beverages, LLC Facility).

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

	Aye	Nay	Abstain
Ferris Betrus	___x___	_____	_____
Michael Fitzgerald	___x___	_____	_____
David Grow	___x___	_____	_____
Mary Faith Messenger	___x___	_____	_____
Kirk Hinman	___x___	_____	_____
Eugene Quadraro	___x___	_____	_____
Steve Zogby	___x___	_____	_____

RESOLUTION AUTHORIZING THE AGENCY TO CONSENT TO THE CHANGE OF CONTROL OF THE ALDER CREEK BEVERAGES, LLC FACILITY AND TO EXECUTE 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 372 of the Laws of 1970 of the State of New York (collectively, the "Act"), Oneida County Industrial Development Agency (the "Agency") was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, Alder Creek Beverages, LLC (the "Company") previously requested that the Agency provide certain financial assistance, consisting of exemptions from sales and use taxes and reduction of real property taxes (the "Financial Assistance"), for a project consisting of acquisition and renovation of a 240,000± square foot building (the "Improvements") situated on a 1,679± acre parcel of land located at One Nirvana Plaza, 12044 State Route 12, Town of Boonville, Oneida County, New York, together with all water rights associated therewith (collectively, the "Land"); and acquisition and installation of equipment in the Improvements (the "Equipment"), all to be used for the manufacture of bottled spring water for distribution to retail sales outlets (the Land, the Improvements and the Equipment are referred to collectively as the "Facility" and the acquisition, renovation and equipping of the Facility is referred to as the "Project"); and

WHEREAS, the Company leases the Facility to the Agency pursuant to a Lease Agreement dated as of February 1, 2017 (the "Lease Agreement"); and

WHEREAS, the Agency leases the Facility back to the Company pursuant to a Leaseback Agreement dated as of February 1, 2017 (the "Leaseback Agreement"); and

WHEREAS, the Facility is the subject of that certain Payment-in-Lieu-of-Tax Agreement by and between the Agency and the Company, dated as of February 1, 2017 (the "PILOT Agreement"); and

WHEREAS, payments under the PILOT Agreement are made pursuant to the terms of a PILOT Payment Escrow Account Agreement by and among the Agency, the Company and Adirondack Bank (the "PILOT Escrow Agreement"); and

WHEREAS, the Facility is also the subject of an Environmental Compliance and Indemnification Agreement by and between the Agency and the Company, dated as of February 1, 2017 (the "Environmental Compliance Agreement"); and

WHEREAS, the Facility is also the subject of a Job Creation and Recapture Agreement by and between the Agency and the Company, dated as of February 1, 2017

(the "Recapture Agreement" and together with the Lease Agreement, the Leaseback Agreement, the PILOT Agreement, the PILOT Escrow Agreement and the Environmental Compliance Agreement, the "Agency Documents"); and

WHEREAS, by letter dated January 26, 2023, the Company notified the Agency that, on or about January 31, 2023, it intends to transfer 100% of the ownership interest of its members, Wade Abraham and Paul Rayhill (collectively, the "Original Members") to Nirvana Water Sciences Corp. (the "New Sole Member"); and

WHEREAS, under the terms of the Leaseback Agreement, such transfer of membership interest from the Original Members to the New Sole Member (the "Change of Control") requires the prior written consent of the Agency; and

WHEREAS, based on information provided by the Company, the Company is in compliance with all conditions of the Agency Lease Documents, will operate the Facility, and will remain primarily liable for all of the obligations of the Company under the Agency Lease Documents; and

WHEREAS, the Company has requested the Agency consent to the Change of Control.

NOW, THEREFORE, BE IT RESOLVED by the Oneida County Industrial Development Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. 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 is defined in the Act; and

(c) The Change of Control will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Oneida County and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) The Change of Control is reasonably necessary to induce the Company to maintain and expand its business operation in the State of New York; and

(e) It is desirable and in the public interest for the Agency to consent to the Change of Control.

Section 2. In consequence of the foregoing, the Agency hereby determines to consent to the Change of Control, subject to the Company fulfilling the following condition(s) to the satisfaction of the Agency:

- The New Sole Member shall execute and deliver a Closing Certificate of the Company affirming it is aware of its obligations under the Agency Documents and providing organizational documents, in a form acceptable to Agency counsel; and
- The Company creating an additional twenty (20) full time equivalent positions prior to the end of the eighth year of the Lease Term and retaining all for the balance of the Lease Term.

Section 3. The Agency is hereby authorized to do all things necessary or appropriate for the accomplishment of the Change of Control, and all acts heretofore taken by the Agency with respect to such sale, assignment and financing are hereby approved, ratified and confirmed.

Section 4.

(a) The Chairman, Vice Chairman, Secretary or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver all documents as may be, in the judgment of the Chairman and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the "Closing Documents"). The execution thereof by the Chairman, Vice Chairman, or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, Vice Chairman, Secretary or member of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Leaseback Agreement).

Section 5. 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 or provided for by the provisions of the Closing Documents, and to execute and deliver all such additional certificates, instruments and documents, 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 resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Closing Documents binding upon the Agency.

Section 6. This resolution shall take effect immediately.

AMENDMENT TO FEBRUARY 10, 2023 RESOLUTION

At a meeting of the Oneida County Industrial Development Agency (the “Agency”), held at 584 Phoenix Drive, Rome, New York with remote access at 3211 Oriole Drive, Sarasota, Florida at 8:00 a.m. on March 28, 2023, the following members of the Agency were:

Members Present – Rome, NY: David Grow, Steve Zogby, Mike Fitzgerald.

Members Present – Sarasota, FL: Ferris Betrus, Mary Faith Messenger, Kirk Hinman, Gene Quadraro.

EDGE Staff Present – Rome, NY: Steven J. DiMeo, Maureen Carney, Tim Fitzgerald, Laura Cohen, Mark Kaucher, Chris Lawrence, Hannah Phillips.

EDGE Staff Present – Sarasota, FL: Shawna Papale

EDGE Staff Present – WebEx: Bill Van Shufflin

Other Attendees: Mark Levitt, Levitt & Gordon; Rome Mayor Jackie Izzo, Jef Saunders, Saunder-Kahler LLP; Wade Abraham, Alder Creek Beverage.

Other Attendees – WebEx: Paul Goldman, Goldman Attorneys PLLC; Linda Romano and Laura Ruberto, Bond, Schoeneck & King; Shelby Pay, WUTR; John Herbrand and Charlie Monte Verde, Mohawk Adirondack & Northern Railroad; Alison Stanulevich, Horsht, LLC; Bob Pagano, Kris-Tech Wire; Patrick Allen and Greg Mountain, Collins Solar LLC; Gregg Evans, The Bonadio Group

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on an amendment to the February 10, 2023 resolution pertaining to the change of control of a certain industrial development facility more particularly described below (Alder Creek Beverages, LLC Facility).

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

	Aye	Nay	Abstain
Ferris Betrus	___x___	_____	_____
Michael Fitzgerald	_____	___x___	_____
David Grow	___x___	_____	_____
Mary Faith Messenger	___x___	_____	_____
Kirk Hinman	_____	___x___	_____
Eugene Quadraro	___x___	_____	_____
Steve Zogby	___x___	_____	_____

WHEREAS, the Agency adopted a resolution on February 10, 2023 (the "Change of Control Resolution") consenting to a Change of Control Transaction relating to the Alder Creek Beverages, LLC (the "Company") Facility; and

WHEREAS, the Agency conditioned its consent on the Company creating an additional twenty (20) full time equivalent positions prior to the end of the eighth year of the Lease Term and retaining all for the balance of the Lease Term; and

WHEREAS, the Agency now wishes to amend the Change of Control Resolution to omit said condition.

NOW, THEREFORE, BE IT RESOLVED by the Oneida County Industrial Development Agency (a majority of the members thereof affirmatively concurring) as follows:

1. The condition that the Company create an additional twenty (20) full time equivalent positions prior to the end of the eighth year of the Lease Term and retaining all for the balance of the Lease Term is hereby omitted.
2. This resolution shall take effect immediately.

END OF RESOLUTION

STATE OF NEW YORK)
 : ss.:
COUNTY OF ONEIDA)

I, the undersigned Secretary of the Oneida County Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meetings of the Oneida County Industrial Development Agency (the "Agency"), including the resolutions contained therein, held on February 10, 2023 and on March 28, 2023 with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions 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 (i) all members of the Agency had due notice of said meetings, (ii) said meetings were open for the public to attend and public notice of the time, place of, and instructions to access, said meetings was duly given, (iii) the meetings in all respects were duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand as of March 28, 2023.

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Shawna Papale, Secretary