

Transcript Document No. 7(a)

**Final Authorizing Resolution
Matt Brewing Co., Inc. Facility**

Date: July 16, 2021

At a meeting of the Oneida County Industrial Development Agency (the "Agency") held at 584 Phoenix Drive, Rome, New York 13441 on the 16th day of July 2021, the following members of the Agency were:

Members Present: David Grow; Kirk Hinman; Mary Faith Messenger, E. Quadraro; Steve Zogby

Members Present Webex/Teleconference: Ferris Betrus, L. Michael Fitzgerald

EDGE Staff Present: Shawna Papale; Mark Kaucher; Steve DiMeo; Maureen Carney; Bill Van Shufflin

Others Present: Rome Mayor Jackie Izzo; Jesse Plumley, Plumley Engineering

Others Present Webex/Teleconference: Linda Romano & Laura Ruberto, Bond, Schoeneck & King; Mark Levitt & Jenna Peppenelli, Levitt & Gordon; Matt Andrews, City of Rome; Amanda Zurla and Olivia Sproviero, GSPP 7024 Fox Rd (Marcy Solar) Genevieve Trigg, Barclay Damon; Fred Matt and Karl Lindhorst, Matt Brewing Co., Inc.; Matt Andrews, City of Rome

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 proposed financial assistance to Matt Brewing Co., Inc..

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

Voting Aye

Voting Nay

F. Betrus
M. Fitzgerald
D. Grow
K. Hinman
M.F. Messenger
E. Quadraro
S. Zogby

RESOLUTION AUTHORIZING THE AGENCY TO EXECUTE THE 2021 LEASE AGREEMENT, THE THIRD AMENDED AND RESTATED LEASEBACK AGREEMENT, THE THIRD AMENDED AND RESTATED PAYMENT-IN-LIEU-OF-TAX AGREEMENT, THE THIRD AMENDED AND RESTATED ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE MATT BREWING CO., INC. 2021 FACILITY LOCATED IN THE CITY OF UTICA, ONEIDA COUNTY.

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"), 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, the Agency previously provided financial assistance to the Company in connection with (i) demolition of a portion of and renovations to the 15,732± square foot existing second floor of the bottling facility and the construction of a new 25,000± square foot finished goods warehouse facility after the 2008 fire at the Company (collectively, the "2009 Improvements"), all situated on a 7.1± acre parcel of land located at 811 Edwards Street, City of Utica, Oneida County, New York (the "Land"); and the acquisition and installation of equipment in the Improvements (the "2009 Equipment" and together with the Land and the 2009 Improvements, the "2009 Facility"); (ii) construction on the Land of a compact Anaerobic Fluidized Bed Digester system for wastewater treatment and on-site energy generation and a small control building (collectively, the "2012 Improvements"); and the acquisition and installation of equipment in the 2012 Improvements (the "2012 Equipment" and together with the Land and the 2012 Improvements the "2012 Facility"); and (iii) a capacity expansion and brewery modernization project consisting of (a) construction of a 15,000± square foot fermenting and aging cellar (the "Aging Cellar") situated on a 1± acre vacant parcel of land located at 806 – 832 (consolidated to 814) Edward Street, City of Utica, New York (the "2017 Land"); (b) construction on the Land of a two-story, 4,800 square foot addition to the existing brew house (the "Brew House Addition"); (c) construction of an overhead pipe bridge over Edward Street to connect the Aging Cellar with the Existing Facility (the "Pipe Bridge"); (d) removal of a portion of the parking lot and restriping of the parking lot (the "Parking Lot" and together with the Aging Cellar, the Brew House Addition and the Pipe Bridge, the "2018 Improvements"); and (d) acquisition and installation of equipment in the 2018 Improvements and the Existing Improvements, including but not limited to a new centrifuge, malt cooker, brew kettle, and sixteen vertical fermenting and aging tanks (the "2018 Equipment" and together with the 2018 Land and the 2018 Improvements, the "2018 Facility" and together with the 2009 Facility and the 2012 Facility, the "Existing Facility"); and

WHEREAS, the Company has applied to the Agency to enter into a transaction in which the Agency will assist with a capital project consisting of (a) renovations and infrastructure enhancements within the Existing Facility and the 2018 Facility, including but not limited to construction of a ±300 square foot distilled spirits handling facility (collectively, the "Improvements"), and (b) acquisition and installation of equipment in the Improvements (collectively, the "Equipment"), all for the purpose of expanding operations to increase production and creating jobs (the Improvements and the Equipment are referred to collectively as the "2021 Facility," and the construction, renovation and equipping of the Improvements is referred to collectively as the "2021 Project"); and

WHEREAS, the Company leases the Existing Facility to the Agency pursuant to a Lease Agreement dated July 1, 2009, a Lease Agreement dated May 1, 2012 and a Lease Agreement

dated May 1, 2018 (collectively, the "Lease Agreements") and the Agency leases the Existing Facility back to the Company pursuant to a Second Amended and Restated Leaseback Agreement dated as of May 1, 2018 (the "Second Amended Leaseback Agreement"); and

WHEREAS, in order to induce the Company to develop the 2021 Facility, the Agency is willing to accept a leasehold interest in the 2021 Facility pursuant to a Lease Agreement dated of even date herewith (the "2021 Lease Agreement"), extend the leasehold interest in the Existing Facility, and lease the 2021 Facility back to the Company together with the Existing Facility (the 2021 Facility and the Existing Facility referred to as the "Facility") pursuant to the terms and conditions contained in a Third Amended and Restated Leaseback Agreement dated of even date herewith (the "Third Amended Leaseback Agreement"); and

WHEREAS, the Agency by resolution duly adopted on May 21, 2021 as amended on July 16, 2021 (collectively, the "Inducement Resolution") decided to proceed under the provisions of the Act to lease the Facility and directed that a public hearing be held and enter into the 2021 Lease Agreement and Third Amended and Restated Leaseback Agreement; and

WHEREAS, in the Inducement Resolution, the Agency proposed to extend financial assistance to the Company in connection with the 2021 Project consisting of exemptions from sales tax, exemptions from mortgage recording tax and abatement of real property tax (the "Financial Assistance"); and

WHEREAS, the Agency by letter dated June 28, 2021 notified all affected taxing jurisdictions of its intention to consider a resolution approving the proposed Financial Assistance and the reasons that the Agency was deviating from its Uniform Tax Exemption Policy; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities which may arise in connection with the Project and the Agency's leasehold interest in the Facility; and

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 acquisition, construction, renovation and equipping of the 2021 Facility, the leasing of the Facility to the Company, and the Agency's Financial Assistance with respect to the 2021 Project, 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 acquisition, construction, renovation, equipping and financing of the 2021 Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and

(e) Based upon representations of the Company and Company's Counsel, the Facility conforms with the local zoning laws and planning regulations of Oneida County and all regional and local land use plans for the area in which the Facility is located; and

(f) The SEQRA findings adopted by the Agency on July 16, 2021 encompassed the actions to be undertaken by this resolution and no changes have been made since that time to the proposed action that would create new or increased adverse environmental impacts; and

(g) It is desirable and in the public interest for the Agency to undertake the 2021 Project; and

(h) The 2021 Lease Agreement is an effective instrument whereby the Company grants the Agency a leasehold interest in the 2021 Facility and restates its leasehold interest in the Existing Facility; and

(i) The Third Amended and Restated Leaseback Agreement is an effective instrument whereby the Agency leases the Facility back to the Company; and

(j) The Third Amended and Restated Payment-in-Lieu-of-Tax Agreement (the "Third Amended and Restated PILOT Agreement") between the Company and the Agency, in form satisfactory to the Chairman and Agency Counsel, will be an effective instrument whereby the Agency and the Company set forth the terms and conditions of their Agreement regarding the Company's payments in lieu of real property taxes; and

(k) The Third Amended and Restated Environmental Compliance and Indemnification Agreement (the "Third Amended and Restated Environmental Compliance and Indemnification Agreement") by and between the Company and the Agency will be an effective instrument whereby the Company agrees to comply with all Environmental Laws (as defined therein) applicable to the Facility and will indemnify and hold harmless the Agency for all liability under all such Environmental Laws; and

(l) The Jobs Creation and Recapture Agreement (the "Jobs Creation Agreement") by the Company for the benefit of the Agency will be an effective instrument whereby the Company agrees that the Financial Assistance relating to the 2021 Facility is conditioned upon maintaining certain employment levels as a result of the 2021 Project.

Section 2. In consequence of the foregoing, the Agency hereby determines to: (i) acquire a leasehold interest in the 2021 Facility pursuant to the 2021 Lease Agreement, (ii) execute, deliver and perform the 2021 Lease Agreement, (iii) lease the Facility back to the Company pursuant to the Third Amended and Restated Leaseback Agreement, (iv) execute, deliver and perform the Third Amended and Restated Leaseback Agreement, (v) execute, deliver and perform the Third Amended and Restated PILOT Agreement, (vi) execute and deliver the Third Amended and Restated Environmental Compliance and Indemnification Agreement and (vii) deviate from its Uniform Tax Exemption Policy and provide the Financial Assistance to the Company in support of the 2021 Project.

Section 3. The Agency is hereby authorized to accept a leasehold interest in the real property described in Exhibit A to the 2021 Lease Agreement and the personal property described in Exhibit B to the Edward Street Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition are hereby approved, ratified and confirmed.

Section 4. The form and substance of the 2021 Lease Agreement, the Third Amended and Restated Leaseback Agreement, the Third Amended and Restated Environmental Compliance and Indemnification Agreement, the Jobs Creation Agreement and the Third Amended and Restated PILOT Agreement (each in substantially the forms presented to the Agency and which, prior to the execution and delivery thereof, may be redated) are hereby approved.

Section 5.

(a) The Chairman, Vice Chairman, Secretary or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the 2021 Lease Agreement, the Third Amended and Restated Leaseback Agreement, the Third Amended and Restated Environmental Compliance and Indemnification Agreement and the Third Amended and Restated PILOT Agreement, all in substantially the forms thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, Secretary or any member of the Agency shall approve, and such other related 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 Third Amended and Restated Leaseback Agreement).

Section 6. 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 7. This resolution shall take effect immediately.

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

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

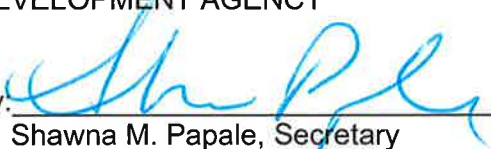
That I have compared the annexed extract of the minutes of the meeting of the Agency, including the resolutions contained therein, held on the 16th day of July 2021 with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Edward Street Lease Agreement, Third Amended and Restated Leaseback Agreement, Third Amended and Restated PILOT Agreement, Third Amended and Restated Environmental Compliance and Indemnification Agreement and Job Creation Agreement contained in this transcript of proceedings are each in substantially the form presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand as of this 21st day of December 2021.

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Shawna M. Papale, Secretary