

**Final Authorizing Resolution
Alder Creek Beverages, LLC Facility**

Transcript Document No. 9(b)

Date: July 15, 2016

At a meeting of the Oneida County Industrial Development Agency (the "Agency") held at 584 Phoenix Drive, Rome, New York 13441 on the 15th day of July 2016, the following members of the Agency were:

Members Present: S. Zogby, D. Grow, E. Quadraro, N. Brown, F. Betrus, M. Fitzgerald, M.F. Messenger

EDGE Staff Present: S. Papale, M. Carney, J. Waters, A. Gerardo, H. LaSalle, S. Dimeo

Others Present: Mayor J. Izzo, L. Ruberto, D. Guzewich, C. Levitt, M. Levitt, L Romano, B. Healy

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 Alder Creek Beverages, LLC.

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

Voting Aye

Voting Nay

Ferris Betrus
Natalie Brown
Michael Fitzgerald
David Grow
Mary Faith Messenger
Eugene Quadraro
Steve Zogby

None

RESOLUTION AUTHORIZING THE AGENCY TO EXECUTE THE LEASE AGREEMENT, THE LEASEBACK AGREEMENT, THE PAYMENT-IN-LIEU-OF-TAX AGREEMENT, THE ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE ALDER CREEK BEVERAGES, LLC FACILITY LOCATED IN THE TOWN OF BOONVILLE, 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, Alder Creek Beverages, LLC, on behalf of itself and/or the principals of Alder Creek Beverages, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") has applied to the Oneida County Industrial Development Agency (the "Agency") to enter into a lease-leaseback transaction in which the Agency will assist in the 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, including all water rights associated therewith (the "Land"); and the 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, in order to induce the Company to develop the Facility, the Agency is willing to accept a leasehold interest in the Land, Improvements and Equipment constituting the Facility and lease said Land, Improvements and Equipment back to the Company pursuant to the terms and conditions contained in a Leaseback Agreement (the "Leaseback Agreement") between the Agency and the Company; and

WHEREAS, the Company has requested that the Agency (the "Agency") provide financial assistance, consisting of abatement of real property tax for a period of ten years and exemptions from sales tax, which is consistent with the Agency's Uniform Tax Exemption Policy (the "Financial Assistance"); and

WHEREAS, the Financial Assistance is conditioned upon the Company retaining no less than forty-four (44) full-time equivalent positions for the full Lease Term as a result of undertaking the Facility, and creating an additional ten (10) full-time equivalent positions by the end of the third lease year, which is more particularly described in the Jobs Creation and Recapture Agreement by the Company for the benefit of the Agency (the "Jobs Creation Agreement"); and

WHEREAS, the Agency has agreed to acquire a leasehold interest in and grant the Financial Assistance with respect to the Facility in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Agency by resolution duly adopted on May 20, 2016 (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 Leaseback Agreement; 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.

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, renovation and equipping of the Facility, the leasing of the Facility to the Company, the subleasing of the Facility to the Sublessees, and the Agency's Financial Assistance with respect thereto, 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, renovation, equipping and financing of the Facility and the Agency's Financial Assistance with respect thereto 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 SEQR resolution adopted by the Agency on July 15, 2016 remains in full force and effect; and

(g) It is desirable and in the public interest for the Agency to undertake the Project and to deviate from its Policy by providing the Financial Assistance; and

(h) The Lease Agreement, in the Agency's customary form, will be an effective instrument where the Company conveys to the Agency its leasehold interest in the Facility;

(i) The Leaseback Agreement, in the Agency's customary form, will be an effective instrument whereby the Agency leases the Facility back to the Company; and

(j) The Payment-in-Lieu-of-Tax Agreement (the "PILOT Agreement"), between the Company and the Agency, in the Agency's customary form, 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

(l) The Environmental Compliance and Indemnification Agreement (the "Environmental Compliance and Indemnification Agreement") by and between the Company and the Agency, in the Agency's customary form, 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

(m) The Jobs Creation Agreement, in the Agency's customary form, will be an effective instrument whereby the Company acknowledges the terms and conditions upon which the Financial Assistance may be recaptured by the Agency.

Section 2. In consequence of the foregoing, the Agency hereby determines to: (i) acquire a leasehold interest in the Facility, (ii) execute, deliver and perform the Lease Agreement; (iii) lease the Facility back to the Company pursuant to the Leaseback Agreement, (iv) execute, deliver and perform the Leaseback Agreement, (v) execute, deliver and perform the PILOT Agreement, and (vi) execute, deliver and perform the the Environmental Compliance and Indemnification Agreement.

Section 3. The Agency is hereby authorized to acquire a leasehold interest in the real property described in Exhibit A to the Lease Agreement and the personal property described in Exhibit B to the 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 Lease Agreement, the Leaseback Agreement, the Environmental Compliance and Indemnification Agreement, the PILOT Agreement and the Jobs Creation Agreement (each in the Agency's customary form) are hereby approved. The form and substance of all loan documents are hereby approved, subject to the review and approval by Agency Counsel.

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 Lease Agreement, the Leaseback Agreement, the PILOT Agreement and the Environmental Compliance and Indemnification Agreement, all in the Agency's customary forms or in the forms to be approved by Agency Counsel, 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 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 15th day of July 2016 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 Lease Agreement, the Leaseback Agreement, the PILOT Agreement, the Environmental Compliance and Indemnification Agreement and the Jobs Creation Agreement contained in this transcript of proceedings are each in substantially the forms customary 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 7th day of February 2017.

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Shawna M. Papale, Secretary