

PROJECT AUTHORIZING RESOLUTION
(Watkins Brewery Holdings LLC Project)

A regular meeting of the Schuyler County Industrial Development Agency was convened in public session on Monday, June 17, 2013 at 5:00 p.m..

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

Resolution No. 2013- 1

RESOLUTION OF THE SCHUYLER COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) APPOINTING WATKINS BREWERY HOLDINGS LLC (THE "COMPANY") AS ITS AGENT TO UNDERTAKE THE PROJECT (AS MORE FULLY DESCRIBED BELOW); (ii) AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGENT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, PAYMENT-IN-LIEU-OF-TAX AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT; (iii) AUTHORIZING THE PROVISION OF CERTAIN FINANCIAL ASSISTANCE TO THE COMPANY (AS FURTHER DEFINED HEREIN); (iv) AUTHORIZING THE EXECUTION OF A MORTGAGE AND RELATED DOCUMENTS; AND (v) RATIFYING SEQRA FINDINGS OF THE VILLAGE OF WATKINS GLEN PLANNING BOARD WITH RESPECT TO THE PROJECT.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 21 of the Laws of 1971 of the State of New York, as amended (hereinafter collectively called the "Act"), the **SCHUYLER COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called "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 civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **WATKINS BREWERY HOLDINGS LLC** (the "Company") previously submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in all or portions of certain property located at 1 North Franklin Street in the Village of Watkins Glen, Schuyler County, New York (the "Land", being identified as TMID No. 65.09-1-16) and the existing improvements located thereon consisting principally of a 3-story brick building used previously as a brewery and freezer storage facility (the "Existing Improvements"); (ii) the rehabilitation, reconstruction and renovation of the Existing Improvements located on the Land to accommodate seven (7) residential rental units, along with the construction and installation of certain site work, improvements and related amenities within and upon the Land, including driveway, parking, curbage, and infrastructure (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Existing Improvements and Improvements of certain items of equipment and other tangible personal

property (the “Equipment” and, collectively with the Land, the Existing Improvements and the Improvements, the “Facility”); and (iv) through a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will acquire a leasehold interest in the Facility and sublease such interest in the Facility back to the Company (the “Straight Lease Transaction”); and

WHEREAS, on December 17, 2012, the Agency adopted a resolution (the “Initial Resolution”) directing that a public hearing be held and that an agent agreement (the “Agent Agreement”), lease agreement (the “Lease Agreement”), leaseback agreement (the “Leaseback Agreement”) and payment-in-lieu-of-tax agreement (the “PILOT Agreement”) and related documents be negotiated; and

WHEREAS, the Village of Watkins Glen Planning Board, as lead agency, conducted a review of the Project pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and its implementing regulations at 6 NYCRR Part 617 (collectively referred to as “SEQRA”), which resulted in the issuance of a negative declaration by the Village of Watkins Glen Planning Board dated April 17, 2013 (the “Negative Declaration”), a copy of which is attached hereto as **Exhibit A**; and

WHEREAS, pursuant to Section 859-a of the Act, on June 17, 2012, at 3:30 p.m, local time, at Watkins Glen Village Hall, 303 North Franklin Street, Watkins Glen, New York 14891, the Agency held a public hearing with respect to the Project and the proposed Financial Assistance being contemplated by the Agency (the “Public Hearing”) whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views, a copy of the minutes of the Public Hearing along with the Notice of Public Hearing published and forwarded to the Village of Watkins Glen (the “Village”), the Town of Reading (the “Town”), the County of Schuyler (the “County”), and the Watkins Glen Central School District (the “School”, and together with the Village, Town and County, the “Affected Tax Jurisdictions) at least thirty (30) days prior to said Public Hearing are attached hereto as **Exhibit B**; and

WHEREAS, in furtherance of the foregoing, the Agency desires to authorize (i) the appointment of the Company as agent of the Agency to undertake the Project; (ii) the execution and delivery of the Agent Agreement, Lease Agreement, the Leaseback Agreement, the PILOT Agreement, and related documents; and (iii) the provision of the Financial Assistance to the Company, which shall include (a) an exemption from all state and local sales and use taxes with respect to the qualifying personal property included in or incorporated into the Facility or used in the rehabilitation, renovation and equipping of the Facility, (b) an exemption from all mortgage recording taxes imposed on the Facility by the State of New York or any political subdivision thereof, and (c) a partial real property tax abatement through the execution of an agreement with the Agency regarding payments in lieu of real property taxes to be made for the benefit of the Affected Tax Jurisdictions.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF SCHUYLER COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Based upon a review of the Application and the Negative Declaration submitted to the Agency by the Company, the Agency hereby consents to and affirms the status of Village of Watkins Glen Planning Board as Lead Agency, within the meaning of, and for all purposes of complying with SEQRA; determines that the proceedings undertaken by the Village of Watkins Glen Planning Board under SEQRA with respect to the undertaking of the Project by the Company satisfies the requirements of SEQRA; ratifies such proceedings by the Village of Watkins Glen Planning Board; and determines that all of the provisions of SEQRA that are required to be complied with as a condition precedent to the approval of the Financial Assistance contemplated by the Agency with respect to the Project and the participation by the Agency in undertaking the Project have been satisfied.

Section 2. Subject to the Company executing the Agent Agreement and Leaseback Agreement, and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, renovation, construction, reconstruction, rehabilitation and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; *provided, however*, the Agent Agreement shall expire on June 30, 2014 (*unless extended for good cause by the Executive Director of the Agency*).

Section 3. Based upon the representation and warranties made by the Company the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$1,200,000**, 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**. The Agency agrees to consider any requests by the Company for increase 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, and, to the extent required, the Agency authorizes and conducts any supplemental public hearing(s).

Section 4. Pursuant to Section 875(3) of the Act, 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; (iv) the Company has made a material false statement on its application for financial assistance; (v) 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; and/or (vi) the Company obtains mortgage recording tax benefits and/or real property tax abatements and 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 (collectively, items (i) through (vi) hereby defined as a “Recapture Event”).

As a condition precedent of receiving sales and use tax exemption benefits, mortgage recording tax exemption benefits, and real property tax abatement benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, must (i) if a Recapture Event determination is made by the Agency, cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, mortgage recording tax benefits and/or real property tax abatements abatement benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands, if and as so required to be paid over as determined by the Agency.

Section 5. The Chairman, Vice Chairman and Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Agent Agreement, Lease Agreement, Leaseback Agreement, PILOT Agreement and related documents with such changes as shall be approved by the Chairman, Vice Chairman, the Executive Director and counsel to the Agency upon execution.

Section 6. The Chairman, Vice Chairman and Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any Lender identified by the Company (the “Lender”) in such forms as approved by counsel to the Agency up to a maximum principal amount necessary to undertake the Project, acquire the Facility and/or finance or refinance equipment and other personal property and related transactional costs (hereinafter, with the Agent Agreement, Lease Agreement, Leaseback Agreement and PILOT Agreement, collectively called the “Agency Documents”); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairman, Vice Chairman or Executive Director of the Agency shall approve, the execution thereof by the Chairman, Vice Chairman or Executive Director of the Agency to constitute conclusive evidence of such approval; provided, in all events, recourse against the Agency is limited to the Agency's interest in the Project.

Section 7. 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 8. 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>Abstain</i>	<i>Absent</i>
Kevin Murphy	[]	[]	[]	[]
Carl L. Taber	[]	[]	[]	[]
Carl Blowers	[]	[]	[]	[]
Thomas Gifford	[]	[]	[]	[]
Richard Owlett	[]	[]	[]	[]
Jerold Marvel	[]	[]	[]	[]

The Resolutions were thereupon duly adopted.

SECRETARY'S CERTIFICATION

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

I, _____, the undersigned Secretary of the SCHUYLER COUNTY INDUSTRIAL DEVELOPMENT AGENCY, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Schuyler County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on June 17, 2013, 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 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 ___ day of June, 2013.

Secretary

EXHIBIT A

[EAF and SEQRA Materials, including Negative Declaration
of Village of Watkins Glen Planning Board]

Attached hereto

EXHIBIT B

[Notice Documents]

Attached hereto