

**Final Authorizing Resolution
Running Supply, Inc. Facility**

Transcript Document No. 10(a)

Date: February 26, 2016

At a meeting of the Oneida County Industrial Development Agency (the "Agency") held at 584 Phoenix Drive, Rome, New York 13441 on the 26th day of February 2016, the following members of the Agency were:

Members Present: S. Zogby, D. Grow, M. Fitzgerald, M.F. Messenger, F. Betrus (via video conference)

EDGE Staff Present: S. Papale, M. Carney, J. Waters, S. DiMeo

Others Present: C. Levitt, D. Guzewich, J. Izzo, L. Ruberto, Bill Maxim

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 JR&R II, LLC and Running Supply, Inc.

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

Ferris Betrus voting aye;
Michael Fitzgerald voting aye;
David Grow voting aye;
Mary Faith Messenger voting aye;
Steven Zogby voting aye.

RESOLUTION AUTHORIZING THE AGENCY TO EXECUTE THE LEASE AGREEMENT, THE LEASEBACK AGREEMENT, THE PAYMENT-IN-LIEU-OF-TAX AGREEMENT, THE PILOT MORTGAGE, THE ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT, THE LOAN DOCUMENTS AND RELATED DOCUMENTS WITH RESPECT TO THE JR&R II, LLC/RUNNING SUPPLY, INC. FACILITY LOCATED IN THE CITY OF ROME, 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, JR&R II, LLC, on behalf of itself and/or the principals of JR&R II, 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 290,000± square foot facility (the "Improvements") located on a 15± acre parcel of land at 5865 Success Drive, City of Rome, Oneida County, New York (the "Land") and the acquisition and installation of equipment in the Improvements (the "Equipment"), all to be used for the warehousing of general merchandise and distribution to retail operations in the Northeast (the Land, the Improvements and the Equipment are referred to collectively as the "Facility" and the 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 subleases an 80,900± square foot portion of the Facility to Running Supply, Inc. (the "Sublessee") upon the terms and conditions contained in a Warehouse Lease (Multi-Tenant) Agreement dated June 11, 2014 between Rite Aid of Rome Distribution Center, Inc. ("Landlord") and the Sublessee, as the same may be amended from time to time (the "Sublease Agreement"); and

WHEREAS, as part of the Company's acquisition of the Facility, Landlord will assign to Company and Company will assume from Landlord all of Landlord's rights and obligations under the Sublease Agreement; and

WHEREAS, the Company intends to further sublease other portions of the Facility to commercial tenants to be determined from time to time and as permitted by the Leaseback Agreement; 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, during which time the Company will pay an annual fixed PILOT Payment of \$85,000, exemptions from mortgage recording tax and exemptions from sales tax, which is a deviation from the Agency's Uniform Tax Exemption Policy (the "Financial Assistance"); and

WHEREAS, the Financial Assistance is conditioned upon the Company and/or the Sublessee maintaining no less than forty-five (45) full-time equivalent positions for the full Lease Term as a result of undertaking the Facility, which is more particularly described in the Jobs Creation and Recapture Agreement by the Company and the Sublessee 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 Company intends to finance a portion of the costs of the Facility by way of a loan from a commercial lender (the "Bank") to the Company; and

WHEREAS, the Agency by resolution duly adopted on January 15, 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 and the Sublessee have 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 a portion of the Facility to the Sublessee, 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 January 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 among the Company, the Sublessee, the Agency and the Bank, in the Agency's customary form, will be an effective instrument whereby the Company and the Sublessee agree to comply with all Environmental Laws (as defined therein) applicable to the Facility and will indemnify and hold harmless the Agency and the Bank 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 and the Sublessee acknowledge the terms and conditions upon which the Financial Assistance may be recaptured by the Agency; and

(n) The PILOT Mortgage and Security Agreement from the Company and the Agency to the Agency for the benefit of the taxing authorities (the "PILOT Mortgage"), in the Agency's customary form, will be effective instruments whereby the Agency grants the Bank a mortgage and security interest in its interest in the Facility

(o) All loan related documents, in forms satisfactory to the Chairman and Agency Counsel, will be effective instruments whereby the Agency grants the Bank a mortgage and security interest in its interest in the Facility.

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, (vi) execute, deliver and perform the the Environmental Compliance and Indemnification Agreement; (vii) execute, deliver and perform the PILOT Mortgage; (viii) grant to the Bank a mortgage and security interest in the Facility; (ix) execute, deliver and perform all loan documents, subject to review and approval by Agency counsel; and (x) deviate from its Policy and provide the Financial Assistance to the Company in support of the Project as conditioned by the Jobs Creation 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, the PILOT Mortgage, the Environmental Compliance and Indemnification Agreement and all loan related documents, 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 26th day of February 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 PILOT Mortgage, the Environmental Compliance and Indemnification Agreement, the Jobs Creation Agreement and the loan documents 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 15th day of April 2016.

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Shawna M. Papale, Secretary

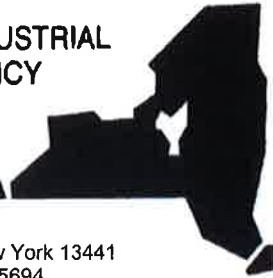
Anthony J. Picente Jr.
County Executive

Shawna Papale
Secretary/Treasurer
Executive Director

Jennifer Waters
Assistant Secretary

ONEIDA COUNTY INDUSTRIAL
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OCIDA



584 Phoenix Drive, Rome, New York 13441
(315) 338-0393, fax (315) 338-5694
info@mvedge.org; www.mvedge.org

David C. Grow, Chairman
Natalie Brown, Vice Chairman

Ferris Betrus Jr.
Michael Fitzgerald
Mary Faith Messenger
Eugene Quadraro
Steven Zogby

February 17, 2016

Mr. Anthony J. Picente, Jr.
Oneida County Executive
Oneida County Office Building
800 Park Avenue
Utica, New York 13501

Re: *Running Supply, Inc. Facility*

Dear Sir:

On February 26, 2016 at 8:00 a.m. local time at 584 Phoenix Drive, Rome, New York 13441, the Oneida County Industrial Development Agency (the "Agency") will meet to consider a final authorizing resolution regarding the above-referenced project for the use of Running Supply, Inc. (the "Company").

The financial assistance contemplated by the Agency constitutes a deviation from its Uniform Tax Exemption Policy (the "Policy") in the following respects:

The Company will make fixed annual PILOT Payments in the amount of \$85,000 for ten years. Such PILOT Payments will be allocated among the Taxing Authorities in the same proportion as taxes would have been allocated but for the Agency's involvement, unless the Taxing Authorities have consented in writing to a specific allocation (For the purposes of apportioning the credit, each Taxing Authority shall use the tax rate for the prior Exemption Year).

The Agency contemplates the Company will also receive exemptions from mortgage recording tax and sales tax, consistent with the Agency's Policy.

The Agency is deviating from its Policy for the following reasons:

1. **The nature of the proposed project:** The project will secure the Company's place in Rome to serve as the distribution hub to support all of the Company's stores in the Northeast.

Anthony J. Picente Jr.
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2. **The nature of the property before the project begins:** The Company is acquiring and renovating the former Rite Aid Warehouse, which has been mostly vacant for five years and in need of significant updates and repairs. The Company currently leases 80,000 square feet of the building but wishes to acquire and occupy the entire building. If the Company does not acquire the building, it will explore other warehouse options in New York State when its lease expires in less than three years.
3. **The extent to which financial assistance for the properties will create or retain permanent, private sector jobs:** The Company has committed to maintain 45 permanent jobs within Oneida County as a result of the project.
4. **The economic condition of the area at the time of the application:** the project is located in a blighted area of the City.
5. **The estimated value of tax exemptions to be provided:** By setting an annual fixed PILOT Payment, the taxing jurisdictions and the Company are better able to address financial planning.
6. **The amount of private sector investment generated or likely to be generated by the proposed project:** The Company will invest \$2 million to renovate the building. Financial assistance by the Agency will assist in making the project feasible.
7. **The impact of the proposed project on existing and proposed businesses and economic development projects in the County.**

You are welcome to attend such meeting at which time you will have an opportunity, both orally and in writing, to present your views with respect to the project. We are providing this notice to you, pursuant to Chapters 356 and 357 of the Laws of 1993, as the chief executive officer of an affected tax jurisdiction within which the project is located.

Should you desire to discuss this matter or if you have any questions concerning this notice please feel free to contact Shawna Papale at the Agency at telephone number 338-0393.

Very truly yours,

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By:


Shawna M. Papale, Executive Director

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February 17, 2016

Jacqueline M. Izzo, Mayor
City of Rome
198 North Washington Street
Rome, New York 13440

Re: *Running Supply, Inc. Facility*

Dear Madam:

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February 17, 2016

Louis Daniello, President
Board of Education
Rome City School District
409 Bell Road
Rome, New York 13440

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ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By:


Shawna M. Papale, Executive Director

c: Jeffrey P. Simons, Superintendent of Schools