

TOWN OF WALLKILL INDUSTRIAL DEVELOPMENT AGENCY

Date: September 22, 2020

At a meeting of the Town of Wallkill Industrial Development Agency (the "Agency"), held on the 22nd day of September, 2020, the members of the Agency were present or absent as indicated below, and upon motion duly made and seconded, adopted the following resolution by voting as follows:

Members	Aye	Nay	Abstain	Absent
M. Coyne, Chairman	✓			
P. Erickson	✗			
K. Mulqueen	✗			
J. Stewart	✓			
J. Townsend				✗

RESOLUTION OF THE TOWN OF WALLKILL INDUSTRIAL DEVELOPMENT AGENCY (THE “AGENCY”): (i) ACCEPTING THE APPLICATION OF PRESIDENT CONTAINER HOLDINGS II LLC (THE “COMPANY”) WITH RESPECT TO A CERTAIN PROJECT (AS MORE FULLY DESCRIBED BELOW); (ii) RATIFYING THE PUBLIC HEARING ASSOCIATED WITH THE AGENCY’S ARTICLE 18-A AND SEQRA REVIEW OF THE PROJECT; (iii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT; (iv) ADOPTING FINDINGS PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (“SEQRA”) WITH RESPECT TO THE PROJECT; (v) AUTHORIZING THE UNDERTAKING OF THE PROJECT FOR THE BENEFIT OF THE COMPANY; AND (vi) AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGENT AGREEMENT, SALES TAX EXEMPTION AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT IN A FORM AND UPON TERMS ACCEPTABLE TO AGENCY COUNSEL

WHEREAS, the Town of Wallkill Industrial Development Agency (the “Agency”) is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 435 of the 1970 Laws of New York, as amended, constituting Section 895 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities and continuing care retirement communities, among others, for the purpose of promoting, attracting, encouraging and developing recreation, and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct, improve, maintain, equip or furnish one or more “projects” (as defined in the Act); to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of said projects; and to issue bonds and provide for the rights of the holders thereof; and

WHEREAS, the Company has presented an application (the “Application”) to the Agency, a copy of which was presented at the Agency’s August 19, 2020 meeting and copies of which are on file at the office of the Agency, requesting that the Agency consider undertaking a project to expand an existing facility for the manufacturing of corrugated packaging (the “Project”) which will include the following: (A) (1) the construction of a 90,000 square foot expansion located at 290 Ballard Road (the “Land”); (2) the acquisition and installation thereon of certain machinery and equipment (the “Equipment”) both of which shall be referred to herein as the “Project Facility”; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing including potential exemption from sales tax, mortgage tax and real property tax with a negotiated payment-in-lieu-of-tax agreement

(collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the total financial assistance being contemplated by the Agency is greater than \$750,000.00; and

WHEREAS, at the request of the Company, Agency staff duly scheduled and noticed a public hearing (the “Public Hearing”) to be held pursuant to Section 859-a of the Act on September 8, 2020, at 3:30 P.M., local time, at the Town of Wallkill Town Hall located at 99 Tower Drive, Building A, Middletown, New York at which hearing comments relating to the proposed financial assistance were solicited. Said public hearing was open to the general public and public notice of the time and place of said public hearing was duly given in accordance with the applicable provisions of the General Municipal Law of the State; and

WHEREAS, the Agency has given due consideration to the Application and to representations made by the Company that (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Company to undertake the Project in the Town of Wallkill, Orange County, New York; and (B) the completion of the Project will not result in the removal of a facility or a plant of the Project Applicant from one part of the State of New York to another area of the State of New York or in the abandonment of one or more plants or facilities of the Project Applicant located within the State of New York; and

WHEREAS, the Applicant previously applied to the Town of Wallkill Planning Board (“Planning Board”) in 2018 for a site plan and special permit to undertake the Project which entails the construction of an expansion to its existing facility to house the corrugated packaging machinery; and

WHEREAS, the Planning Board declared itself Lead Agency for the SEQRA review of the Applicant’s site plan and special permit applications for the Project and classified them as an Unlisted action pursuant to SEQRA; and

WHEREAS, the Project was the subject of an environmental impact review process conducted by the Planning Board as Lead Agency pursuant to the New York State Environmental Quality Review Act (“SEQRA”), and this process yielded a negative declaration setting forth the Planning Board’s conclusions and findings with respect to the Project’s potential impacts upon the following areas: Soil Erosion and Stormwater Control; Wastewater Discharge; Hydrology and Water Resources, Terrestrial and Aquatic Ecology; Land Use and Zoning; Transportation; Human Resources and Community Services; Historical and Cultural Resources; Visual Resources; Noise; Air Resources; and Property Values; and

WHEREAS, the Wallkill Planning Board’s negative declaration certified that consistent with social, economic and other essential considerations, including consideration of reasonable alternatives, potential adverse impacts in the SEQRA review process will be minimized or

avoided to the maximum extent practicable by incorporating as conditions of the decision those mitigative measures which have been identified as practicable during the environmental review; and

WHEREAS, the Agency was not an involved agency in the aforementioned SEQRA review process previously undertaken by the Planning Board, as the Financial Assistance described herein was not sought by the Company from the Agency at that time; and

WHEREAS, it appears to the Agency that the Planning Board exercised due diligence pursuant to Section 617.6(a)(2) of the SEQRA regulations in identifying all involved agencies based upon the information available to it at the time it conducted its SEQRA review of the Project; and

WHEREAS, the Company has prepared and submitted a Short Environmental Assessment Form (“EAF”) to the Agency pursuant to New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law, and the regulations adopted pursuant thereto, in 6 NYCRR Part 617, with respect to the Financial Assistance now sought by the Company for the Project, and the Agency desires to declare itself Lead Agency for the purpose of conducting SEQRA review of said Financial Assistance associated with the Project.

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

Section 1. The Company has presented its Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's Application, the Agency hereby finds and determines that:

(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 Agency has the authority to take the actions contemplated herein under the Act; and

(C) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in the Town of Wallkill, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and

(D) It is desirable and in the public interest for the Agency to undertake the Project.

Section 2. The Agency has considered the following matters as more fully set forth in its Uniform Tax Exemption Policies:

A. Permanent private section job creation and retention;

B. Estimated value of tax exemption;

- C. Whether the affected taxing jurisdictions shall be reimbursed by the Company if the Project does not fulfill the purposes for which the exemption was granted;
- D. Impact of Project on existing and proposed business or economic development projects;
- E. The amount of private section investment generated or likely to be generated by the Project;
- F. Demonstrated public support for the Project;
- G. Likelihood of accomplishing the Project in a timely fashion;
- H. Environmental impact;
- I. Extent to which the Project will require additional services including, but not limited to educational, police, transportation, EMS and fire;
- J. Extent to which the Project will provide additional revenues; and
- K. Extent to which the Project will serve the public purposes of the Act by preserving permanent, private section jobs or increasing the overall number of permanent, private section jobs in the State; and

Section 3. The Agency has reviewed the Planning Board's SEQRA findings associated with its comprehensive SEQRA review of the Applicant's site plan and special permit applications for the Project. The Applicant has represented to the Agency that the scope and nature of the Project submitted to the Agency that was the subject of the Planning Board's SEQRA review of the Applicant's site plan and special permit applications has not substantially or significantly changed so as to alter the content or applicability of the Planning Board's SFS. Accordingly, since the scope and nature of the Project has not substantially or significantly changed, the preparation by the Agency of a Supplemental SEQRA Findings Statement (SSFS) for the Project is unnecessary.

The Agency hereby classifies the Financial Assistance for the Project as an "Unlisted Action" under SEQRA and declares itself "Lead Agency" for the purpose of conducting SEQRA review of said Financial Assistance associated with the Project. Pursuant to Section 617.6 of the SEQRA regulations, the Agency has exercised due diligence in reviewing the EAF and other materials submitted by the Applicant and finds that there are no other agencies that may be deemed involved agencies and that need to be contacted in the Agency's SEQRA review of the Financial Assistance sought by the Applicant for the Project. Accordingly, the Agency's SEQRA review of the Financial Assistance for the Project shall be an Uncoordinated Review under Section 617.6 of the SEQRA regulations.

Based upon the Agency's review of the EAF and other materials submitted by the Applicant, the Agency observes that the Financial Assistance associated with the Project does not encompass any construction or site-specific development activities that would be undertaken by the Company that could potentially result in significant adverse environmental impacts. Therefore, the Agency finds that the Financial Assistance associated with the Project will not result in a potential significant adverse environmental impact, as set forth in 6 N.Y.C.R.R. Section 617.7, and issues a Negative Declaration pursuant to SEQRA.

The Agency authorizes its staff to prepare a Negative Declaration for the Financial Assistance for this Project and to publish the same as necessary pursuant to the requirements of SEQRA and any other applicable laws.

Section 4. The Agency will (A) acquire an interest in the Project Facility from the Company pursuant to a lease agreement or other documentation to be negotiated between the Agency and the Company (the "Acquisition Agreement") upon mutually acceptable terms; (B) construct the Project Facility on the Land and acquire and install the Equipment in the Facility or elsewhere on the Land; (C) lease (with an obligation to purchase) or sell the Project Facility to the Company pursuant to a lease agreement or installment sale agreement (the "Project Agreement") between the Agency and the Company whereby the Company will be obligated, among other things, (1) to make payments to the Agency in amounts and at times so that such payments will be adequate to enable the Agency to timely pay all amounts due on the Acquisition Agreement and (2) to pay all costs incurred by the Agency with respect to the Project and/or the Project Facility, including all costs of operation and maintenance, all taxes and other governmental charges, any required payments in lieu of taxes, and reasonable fees and expenses incurred by the Agency with respect to or in connection with the Project and/or the Project Facility; and (D) provide the Financial Assistance with respect to the Project, in accordance with the Agency's uniform tax exemption policy, including (1) exemptions from mortgage recording taxes with respect to any documents recorded by the Agency with respect to the Project in the office of the County Clerk of Orange County, New York or elsewhere, (2) exemption from sales taxes relating to the acquisition, construction and installation of the Project Facility, (3) exemption from transfer taxes on any required real estate transfers to and from the Agency with respect to the Project, and (4) exemption from real estate taxes (but not including special assessments and special ad valorem levies) relating to the Project Facility, subject to the obligation of the Company to make payments in lieu of taxes with respect to the Project Facility.

Section 5. The Agency agrees to negotiate an Agency Agreement with the Company so that the Company may act as the true and lawful agent of the Agency, upon mutually acceptable terms. The aforesaid appointment of the Company as agent of the Agency to reconstruct and equip the Project shall expire on _____ if the Transaction Documents have not been executed and delivered.

Section 6. The undertaking and completion of the Project by the Agency, and the granting of the Financial Assistance with respect to the Project as contemplated by Section 2 of this Resolution, shall be subject to: (A) agreement by the Agency and the Company on mutually acceptable terms for the acquisition by the Agency of an interest in the Land; (B) agreement

between the Agency and the Company on mutually acceptable terms as to payment by the Company of payments in lieu of taxes with respect to the Project Facility, together with the administrative fee of the Agency with respect to the Project; and (C) the Financial Assistance granted by the Agency with respect to the Project must be consistent with the Agency's uniform tax exemption policy, or, if any portion of the Financial Assistance to be granted by the Agency with respect to the Project is not consistent with the Agency's uniform tax exemption policy, the Agency shall follow the procedures for deviation from such policy set forth in Section 874(b) of the Act prior to granting such portion of the Financial Assistance.

Section 7. Based upon the representation and warranties made by the Company in its application for financial assistance, 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 _____ which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed _____. 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.

Section 8. Pursuant to Section 875(3) of the New York General Municipal Law, 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; or (iv) 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. As a condition precedent of receiving sales and use tax exemption benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, must (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 9. The Agency hereby ratifies the scheduling, notice and conduct of the Public Hearing held on September 8, 2020, at 3:30 P.M., local time, at the Town of Wallkill Town Hall, located at 99 Tower Drive, Building A., Middletown, New York. It is hereby found and determined that all formal actions of the Agency concerning and relating to the adoption of this resolution were adopted in an open meeting of the Agency and that all deliberations of the

3. The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

NAME

Mark Coyne	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Joseph Stewart	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Paul Erickson	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Kevin Mulqueen	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
James Townsend	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain

and therefore, the resolution was declared duly adopted.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) pursuant to Sections 103(a) 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 103(a) and 104, (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 and seal on the 22nd day of September, 2020.



Rudy Charles, Secretary