

RESOLUTION GRANTING APPROVAL OF AND AUTHORIZING THE GRANT OF CERTAIN FINANCIAL ASSISTANCE BY THE TOWN OF BABYLON INDUSTRIAL DEVELOPMENT AGENCY TO DIXON 145 ASSOCIATES LLC AND ALWAYS AFFILIATION INC. IN CONNECTION WITH THE RENOVATION, CONSTRUCTION, EQUIPPING AND FURNISHING OF A MANUFACTURING AND DISTRIBUTION FACILITY

WHEREAS, the Town of Babylon Industrial Development Agency (the “**Agency**”) is authorized under the laws of the State of New York, and in particular under the provisions of the New York State Industrial Development Agency Act and the Agency’s enabling legislation, respectively constituting Article 18-A and Section 907-a of the General Municipal Law (Chapter 24 of the Consolidated Laws of New York), as amended (the “**Act**”), to assist in providing for manufacturing, warehousing, research, civic, commercial and industrial facilities in the Town of Babylon, New York (the “**Town**”); and

WHEREAS, representatives of Dixon 145 Associates LLC, a limited liability company organized and existing under the laws of the State of New York or any other real estate holding company created in connection with the foregoing (the “**Owner**”) and representatives of Always Affiliation Inc., a corporation organized and existing under the laws of the State of New York, and Jaxson LLC and Infinity Drain Ltd. which have been or are anticipated to be contributed to Always Affiliation, Inc. (the “**Company**”) have filed or caused to be filed an application with the Agency concerning a project (the “**Project**”) consisting of the renovation, equipping and furnishing of an approximately 44,044 square foot existing 2-story facility and the construction of an approximately 18,780 square foot addition thereto all located or to be located on that certain approximately 3.58 acre lot, piece or parcel of land (the “**Facility Site**”) generally known as 145 Dixon Avenue, Amityville, New York 11701 (collectively, the “**Facility**”) all for use by the Company as a manufacturing and distribution facility in its business of manufacturing and distribution of shower drains and related products in the plumbing industry; and

WHEREAS, in 2015 the Agency provided financial assistance to the Owner pursuant to a prior “straight lease” transaction (as defined in the Act) with respect to the Owner’s facilities located on 145 Dixon Avenue in Amityville, New York and in connection with such prior straight lease transaction the Owner deeded title to its existing facilities to the Agency, and such straight lease transaction was amended and restated as of April 1, 2018 and the Company and the Owner have requested that the Agency further deed title to the existing facilities back to the Owner and further amend and restate said straight lease transaction with respect to the Project; and

WHEREAS, it is contemplated that (i) the Agency will transfer by deed to the Owner the Facility Site and the improvements thereon, (ii) the Owner will cause the transfer or lease of the Facility Site and improvements thereon to the Agency pursuant to an Amended and Restated Company Lease Agreement (the “**Company Lease**”), and (iii) the Agency will assist the Owner and the Company to undertake the Project and will sublease the Facility to the Owner pursuant to an Amended and Restated Lease and Project Agreement (the “**Lease Agreement**”), by and between the Owner and the Agency pursuant to which the Owner agrees, among other things, to make lease payments in such amounts as specified in the Lease Agreement; and

WHEREAS, it is further contemplated that the Owner will sublease the Facility to the Company pursuant to a Sublease Agreement (the “**Sublease Agreement**”) by and between the Owner and the Company pursuant to which the Company agrees, among other things, to make sublease payments in such amounts as equal to lease rentals as specified in the Lease Agreement; and

WHEREAS, pursuant to the Lease Agreement the Owner has agreed to make certain payments in lieu of real property taxes with respect to the Facility to the Agency; and

WHEREAS, in connection with the Agency’s evaluation of the Project for the provision of financial assistance, the Agency has (i) assessed all material information relating to the project included in the Owner and the Company’s project application (the “**Project Application**”) in order to afford a reasonable basis for the decision of the Agency to provide financial assistance to the Project; (ii) reviewed the Agency’s written cost benefit analysis for the Project which identifies the extent to which (A) the Project will create or retain permanent, private sector jobs; (B) the estimated value of any tax exemption to be provided to the Project, (C) the amount of private sector investment generated or likely to be generated by the Project; (D) reviewed the likelihood of accomplishing the proposed project in a timely fashion; and (E) considered the extent to which the Project will provide additional sources of revenue for the Town and the school district where the Facility is located; and

WHEREAS, in connection with the adoption of this resolution the Agency has reviewed the Project Application and the Owner and the Company have confirmed in such Project Application that as of the date of the Project Application, the Company is in substantial compliance with the Act; and

WHEREAS, representatives of the Agency held a public hearing with respect to the Project on September 13, 2022 and a transcript of such hearing has been presented to the members of the Agency; and

WHEREAS, it is desired that the Agency authorize the granting of certain financial assistance to the Owner and the Company in connection with the Project and the Facility including abatements from mortgage recording taxes, real property taxes and sales and use taxes.

NOW, THEREFORE, BE IT DETERMINED, APPROVED AND RESOLVED by the members of the Agency as follows:

Section 1. With respect to the Agency’s evaluation criteria for Manufacturing, Warehousing and Distribution Projects the Agency makes the following determinations:

- (a) It has reviewed the information in the Cost Benefit Analysis, and the public hearing materials with respect to the Project.

- (b) The Owner and the Company propose a capital investment in soft costs, the land, building, machinery and equipment and capital improvements in the Facility of approximately \$8,047,000.
- (c) The Project will not have significant long term impact on local labor in the Town but will result in approximately 30 new temporary construction jobs during the first and second year of construction occurring at the Facility.
- (d) Wage rates for the employees of the Company average \$287,500 per year for management positions, \$72,000 per year for professional positions, \$70,000 per year for administrative positions, \$80,000 per year for supervisor positions and \$41,600 per year for laborer positions, not including fringe benefits.
- (e) The Company has a positive impact on regional wealth creation due to the fact that a significant portion of the Company's product is sold and shipped outside of the Town and result in revenue inflows into the Town and the Long Island region due to taxes and municipal charges paid by the Owner and the Company to the Town and Suffolk County.
- (f) The Project will not have a significant effect on in-region purchases.
- (g) The Project includes the installation of solar equipment which will have a significant effect on energy efficiency.
- (h) The Project will not affect existing land use or zoning.
- (i) The Project is important to the retention of a significant employer of the Town. The Company currently employs 98 full-time employees and such employment is anticipated to increase to 110 full-time employees within two years of the completion of the Project. If the Company does not receive financial assistance from the Agency for the Project, the Company will need to relocate to a larger facility possibly outside of the Town and the Company is considering relocating its current operations to Pennsylvania, Nevada or South Carolina which would achieve substantial costs savings for the Company.

Section 2. Based on the evaluation of the foregoing evaluation criteria, (a) the Agency hereby finds and determines that (i) the Project constitutes a "Project" within the meaning of the Act; and (ii) the granting of mortgage recording tax abatements, real property tax abatements and sales and use tax abatements (collectively the "**Financial Assistance**") by the Agency with respect to the Project and the Facility pursuant to the Act, will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the Town and the State of New York and improve their standard of living, and thereby serve the public purposes of the Act.

(b) It is desirable and in the public interest for the Agency to grant the Financial Assistance to the Company with respect to the Project and the Facility.

(c) The Agency shall grant Financial Assistance to the Owner and the Company in the form of New York State and local Sales and Use Tax abatements in a maximum amount not to exceed \$129,375 as provided in Section 5.2 of the Lease Agreement and in the event of the occurrence of a recapture event under the Lease Agreement the Agency will pursue recapture of the Financial Assistance as provided in Section 5.4 of the Lease Agreement.

Section 3. To accomplish the purposes of the Act, the Agency shall take leasehold title to the Facility pursuant to the Company Lease, assist the Owner and the Company to undertake the Project and lease the Facility to the Owner pursuant to the Lease Agreement which the Owner will further sublease the Facility to the Company pursuant to the Sublease Agreement.

Section 4. Pursuant to the Lease Agreement, the Owner will make certain payments in lieu of real property taxes substantially as described in the Project Application with respect to the Facility.

Section 5. In order to provide the Owner and the Company with Financial Assistance with respect to exemption from New York State and local Sales and Use Taxes with respect to the Project the Agency may issue one or more Sales Tax Agent Authorization Letters (“**Sales Tax Authorization Letters**”) which shall be used pursuant to the terms contained therein and in the Lease Agreement.

Section 6. In order to secure amounts to be loaned by a mortgage lender acceptable to the Chief Executive Officer (“**CEO**”) or the Chief Financial Officer (“**CFO**”) of the Agency to the Company with respect to the financing or refinancing of the Project and the Facility, the Agency hereby authorizes the execution of one or more mortgages (collectively, the “**Mortgages**”) granted at the initial closing of the “straight lease” transaction or any time thereafter during the term of the Lease Agreement, from the Agency and the Owner to any mortgage lender acceptable to the CEO or the CFO of the Agency or any other authorized representative, in form acceptable to the CEO or CFO of the Agency or any other authorized representative and counsel to the Agency.

Section 7. The form and substance of the Lease Agreement in substantially the form previously approved by the Agency for other “straight lease” transactions is hereby approved.

Section 8. The form and substance of the Company Lease in substantially the form previously executed for other “straight lease” transactions is hereby approved.

Section 9. The CEO of the Agency or any successor CEO of the Agency or any other authorized representative including the CFO, is hereby authorized, on behalf of the Agency, to execute and deliver final forms of the Company Lease, Lease Agreement, Mortgages, Sales Tax Agent Authorization Letters, and any other agreements or certificates consistent herewith (hereinafter collectively called the “**Agency Documents**”), all in substantially the forms previously executed by the Agency for other “straight lease” transactions acceptable to Agency counsel, with such changes, variations, omissions and insertions in the Agency Documents as the CEO or the CFO of the Agency or any other

authorized representative of the Agency shall upon advice of counsel approve. The execution thereof by the CEO or the CFO of the Agency or any other authorized representative shall constitute conclusive evidence of such approval.

The CEO or CFO of the Agency or any other authorized representative are further hereby authorized, on behalf of the Agency, to designate any additional authorized representatives including the Chairman, the Secretary or Assistant Secretary of the Agency, to execute any Agency Documents or certificates of the Agency authorized pursuant to this resolution and determine the terms of the Agency Documents.

The Secretary, Assistant Secretary or counsel to the Agency is hereby authorized to attest to the CEO's, the CFO's or any other authorized representative's signature on the foregoing documents and to impress or affix the seal or facsimile seal of the Agency thereto.

Section 10. The CEO of the Agency, the CFO of the Agency or any other authorized representative including the Chairman or the Secretary and any member of the Agency (as used in this resolution, the "**Authorized Representatives**") are hereby designated the authorized representatives of the Agency and each of them is hereby authorized and directed to cause the transactions as described in the Company Lease and the Lease Agreement to be undertaken and in relation thereto, to execute and deliver any and all papers, instruments, agreements, opinions, certificates, affidavits and other documents, and to do and cause to be done any and all acts and things necessary or proper for carrying out this resolution, and the Agency Documents including such changes or revisions in the forms of such documents as may be requested by counsel to the Agency.

Section 11. 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 Agency Documents, and to execute and deliver all such additional certificates, instruments, agreements 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 Agency Documents binding upon the Agency.

Section 12. All covenants, stipulations, obligations and agreements of the Agency contained in this resolution, and the Agency Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Agency and its successors from time to time and upon any board or body to which any powers or duties, affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Agency or the members thereof by the provisions of this resolution, and the Agency Documents shall be exercised or performed by the Agency or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

Section 13. No covenant, stipulation, obligation or agreement contained in this resolution, or the Agency Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency or the Town in his or their individual capacity and neither the members of the Agency nor any officer shall be liable personally on the Agency Documents or be subject to any personal liability or accountability by reason of the execution thereof.

Section 14. The law firm Katten Muchin Rosenman LLP is hereby appointed transaction counsel to the Agency for this transaction.

Section 15. This resolution shall take effect immediately.

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

I, Pauline LaBore, the duly elected, qualified Secretary of the Town of Babylon Industrial Development Agency (the "Agency"), hereby certify that:

1. The foregoing is a true, correct and complete copy of the record of proceedings of the Agency had and taken at a lawful meeting of the Agency held at the Old Town Hall, 47 West Main Street, Babylon, New York on September 14, 2022, commencing at the hour of 8:00 A.M., as recorded in the regular official book, of the proceedings of the Agency, those proceedings were duly had and taken as shown therein.

2. All members of the Agency and the public were duly notified of that meeting pursuant to law.

IN WITNESS WHEREOF, I have signed this certificate and affixed the seal of the Agency the 14th day of September, 2022.


Secretary

(SEAL)