

## INDUCEMENT RESOLUTION

*(Wedge 24, L.P. Project)*

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Friday, March 14, 2008 at 1:00 p.m.

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

Resolution No. 03/2008 - \_\_\_

RESOLUTION AUTHORIZING THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER TO (i) TAKE TITLE TO OR A LEASEHOLD INTEREST IN A PARCEL OF LAND LOCATED AT ONE MAIN STREET, LEROY, NEW YORK (THE "LAND"); (ii) APPOINT WEDGE 24, L.P. AS ITS AGENT TO UNDERTAKE A CERTAIN PROJECT AS MORE FULLY DESCRIBED BELOW; (iii) NEGOTIATE AND EXECUTE A LEASE AGREEMENT, LEASEBACK AGREEMENT AND RELATED PAYMENT-IN-LIEU-OF-TAX AGREEMENT; (iv) PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY AS FOLLOWS (A) A SALES TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, (B) A PARTIAL REAL PROPERTY TAX ABATEMENT THROUGH THE PAYMENT-IN-LIEU-OF-TAX AGREEMENT, AND (C) A MORTGAGE RECORDING TAX EXEMPTION FOR THE FINANCING RELATED TO THE PROJECT; AND (vi) EXECUTE RELATED DOCUMENTS.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 565 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (the "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, **WEDGE 24, L.P.** (the "Company"), for itself or on behalf of an entity to be formed, has requested the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition of title to or a leasehold interest in an approximately 1 - acre parcel of land located at One Main Street, LeRoy, New York (the "Land") together with the existing improvements thereon consisting principally of a fire-damaged building (the "Existing Improvements"), (ii) the renovation, reconstruction, expansion and equipping of the Existing Improvements to provide a unique and otherwise unavailable creek-side dining and tavern experience to the inhabitants of the Town of LeRoy and Genesee County, New York (the "Improvements"), (iii) the acquisition in and around the 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

WHEREAS, it is contemplated that the Agency will (i) designate the Company as its agent for the purpose of acquiring, constructing, reconstructing, renovating, expanding and equipping the Facility pursuant to an agent agreement (the "Agent Agreement"), (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement") and payment-in-lieu-of-tax agreement (the "PILOT Agreement") with the Company, (iii) take a leasehold interest in the Land, the Existing Improvements, the Improvements, the Equipment and personal property constituting the Facility (once the Lease Agreement, Leaseback Agreement and PILOT Agreement have been negotiated), and (iv) provide financial assistance to the Company as follows: (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction, reconstruction, renovation, expansion and equipping of the Project, (b) a partial real property tax abatement through the PILOT Agreement, and (c) a mortgage recording tax exemption for the financing related to the Project; and

WHEREAS, the financial assistance provided to the Company by the Agency shall not exceed \$100,000 and therefore a public hearing is not required under the Act; and

WHEREAS, the Company has submitted to the Agency a Short Environmental Assessment Form (the "EAF") in compliance with respect to the Project, a copy of which is attached hereto as Exhibit A; and

WHEREAS, the Project constitutes a "retail" project as defined under Section 862 of the Act and as such requires additional findings as set forth and made herein; and

WHEREAS, on or about the date hereof, the Chair of the Genesee County Legislature, being the Chief Executive Officer of Genesee County, New York, confirmed the proposed action to be undertaken by the Agency with respect to the Project in compliance with Section 862(2)(c) of the Act. A copy of such approval of the Chief Executive Officer of Genesee County is attached hereto as Exhibit B; and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the financial assistance that the Agency is contemplating with respect to the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER AS FOLLOWS:

Section 1. The Company has presented an application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's application and certain other correspondence (attached hereto as Exhibit C), 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) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing, renovating, reconstructing and equipping the Project; and

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

(D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Genesee County and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(F) The Project constitutes a "retail" project under Section 862 of the Act. Based solely upon the Company's application and other correspondence provided by the Company to the Agency, the Agency hereby finds that the predominant purpose of the Project is to make available goods or services which would not, but for the Project, be reasonably accessible to residents of the Town of LeRoy and Genesee County, New York, because of a lack of reasonably accessible retail trade facilities offering such services. The Project will serve the purposes of the Act by retaining or increasing the overall number of permanent, private sector jobs in the State. The Project will serve the purposes for which the Agency was formed by increasing the overall number of permanent, private sector jobs in Genesee County, New York. Such findings have been confirmed and ratified by the Chair of the Genesee County Legislature, being the Chief Executive Officer of the Genesee County, a copy of such correspondence is attached hereto as Exhibit B; and

(G) The Project involves an "unlisted action" as said term is defined within the New York State Environmental Quality Review Act, Article 8 "The Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. part 617 (hereinafter collectively referred to as "SEQR"). The review is uncoordinated. Based upon the review by the Agency of the Short Environmental Assessment Form (the "EAF") and related documents delivered by the Company to the Agency and other representations made by the Company to the Agency in connection with the Project, the Agency hereby finds that (i) the Project will result in no major impacts and, therefore, is one which will not cause significant damage to the environment; (ii)

the Project will not have a potential significant adverse environmental impact; and (iii) no environmental impact statement need be prepared for this action. This determination constitutes a negative declaration for purposes of SEQR. The Agency's findings are incorporated in Part II of the EAF.

Section 2. Subject to the Company executing the Agent Agreement attached hereto as Exhibit D 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, construction, renovation, reconstruction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct, renovate, reconstruct 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 December 31, 2008 (unless extended for good cause by the President/CEO of the Agency).

Section 3. The Chairman, Vice Chairman, and/or the President/CEO of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver (A) an Agent Agreement, pursuant to which the Agency appoints the Company as its agent to undertake the Project, (B) a Lease Agreement, pursuant to which the Company leases the Facility to the Agency, (C) a related Leaseback Agreement, pursuant to which the Agency conveys its interest in the Facility back to the Company, (D) the PILOT Agreement and (E) related documents; *provided*, the provisions of the Agent Agreement and the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project.

Section 4. The Chairman, Vice Chairman, and/or the President/CEO 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") up to a maximum principal amount of needed to undertake the Project and/or finance equipment and other personal property and related transactional costs (hereinafter, with the 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, and/or the President/CEO of the Agency shall approve, the execution thereof by the Chairman, Vice Chairman, and/or the President/CEO 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 5. 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 6. These Resolutions shall take effect immediately.

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>Absent</i>	<i>Abstain</i>
John F. Andrews	[ ✓ ]	[ ]	[ ✓ ]	[ ]
James L. Vincent	[ ✓ ]	[ ]	[ ]	[ ]
James W. Fulmer	[ ✓ ]	[ ]	[ ]	[ ]
Hollis Upson	[ ✓ ]	[ ]	[ ]	[ ]
Michael Gerber	[ ✓ ]	[ ]	[ ]	[ ]
L. William Benton	[ ✓ ]	[ ]	[ ]	[ ]
Wolcott T. Hinchey	[ ✓ ]	[ ]	[ ]	[ ]

The Resolutions were thereupon duly adopted.