

RESOLUTION

A regular meeting of the County of Sullivan Industrial Development Agency (“Agency”) was convened on October 19, 2020, at 11:00 a.m., local time via teleconference as authorized by New York Governor Andrew Cuomo’s Executive Order No. 202.67.

The meeting was called to order by Chairman Ira Steingart, and, upon roll being called, the following members of the Agency were:

	<u>PRESENT</u>	<u>ABSENT</u>
Ira Steingart	[]	[]
Suzanne Loughlin	[]	[]
Edward T. Sykes	[]	[]
Howard Siegel	[]	[]
Scott Smith	[]	[]
Paul Guenther	[]	[]
Joseph Perrello	[]	[]
Carol Roig	[]	[]

The following persons were also present:

Jennifer M. Flad, Executive Director
Julio Garaicoechea, Project Manager
Deborah Nola, Accounting and Financial Analyst
Walter F. Garigliano, Agency General Counsel

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

Resolution No. ____ - 20

***RESOLUTION OF THE AGENCY (I) CONSENTING TO FRITO-LAY, INC.
BECOMING THE SUCCESSOR TO IDEAL SNACKS CORPORATION WITH
RESPECT TO THE TRANSACTIONS DESCRIBED HEREIN***

WHEREAS, the Agency was created by Chapter 560 of the Laws of 1970 of the State of New York, as amended, pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York (“State”); and

WHEREAS, on or about August 1, 2003 Ideal Snacks, Inc. (“Ideal Inc.” and together with Ideal Snacks Corporation (“Ideal Corp.”, the “Company”) and the Agency entered into a lease/leaseback transaction pursuant to which the Company (i) constructed and equipped an approximately 26,600± square foot expansion to its existing manufacturing facility situate on one

(1) parcel of real property consisting of approximately 2.59± acres located at 89 Mill Street in the Village and Town of Liberty, County of Sullivan, State of New York and identified on the Town of Liberty tax map as Section 113, Block 3, Lot 1.2¹ and related facilities leased to the Agency and leased back to the Company (“2002 Expansion Project” or the “2002 Facility”); and

WHEREAS, on or about December 1, 2003 Ideal Inc. and the Agency entered into a lease/leaseback transaction pursuant to which the Company (i) constructed and equipped a two (2) story manufacturing warehouse building to consist of approximately 104,600± square feet situate on three (3) parcels of real property consisting of approximately 3.96± acres located at 89 Mill Street in the Village and Town of Liberty, County of Sullivan, State of New York and identified on the Town of Liberty tax map as Section 113, Block 3, Lots 1.1, 2 and a portion of 5.1 and related facilities leased to the Agency and leased back to the Company (“2003 Expansion Project” or the “2003 Facility”); and

WHEREAS, on or about December 14, 2004 Ideal Inc. and the Agency amended the 2002 Expansion Project and the 2003 Expansion Project to (i) include certain additional parcels of real property used in connection with the 2002 Facility and the 2003 Facility namely those parcels identified on the Town of Liberty tax map as Section 113, Block 2, Lot 2 and Section 113, Block 1, Lot 86; and (ii) update consistent with the Town of Liberty Assessor’s records parcels previously identified on the Town of Liberty tax map as a portion of Section 113, Block 2, Lot 5.1 and Section 113, Block 3, Lot 2 to Section 113, Block 3, Lot 5.3 (“2004 Expansion Project” or the “2004 Facility”); and

WHEREAS, on or about June 10, 2005 the Agency, Ideal Corp. and AmSouth Bank (“AmSouth”) entered into a certain Omnibus Amendment to Project Documents (“2005 Omnibus Amendment”) whereby the Agency (i) consented to a financing credit facility in an aggregate amount not to exceed \$21,000,000.00 to Ideal Corp. and AmSouth Bank; (ii) granted a mortgage tax abatement relating to a mortgage in an amount not to exceed \$8,000,000.00; (iii) amended the 2002 Expansion Project, the 2003 Expansion Project and the 2004 Expansion Project; and (iii) authorized a consent to a change in ownership and control of 2002 Expansion Project, 2003 Expansion Project and 2004 Expansion Project from Ideal Inc. to the Company (“2005 Project” or the “2005 Facility”); and

WHEREAS, on or about March 22, 2006, Ideal Corp. presented an application (“Application”) to the Agency whereby the Agency undertook a project consisting of the (i) construction and equipping of an approximately 1,700± square foot corridor connecting the 2002 Facility and the 2003 Facility intended to house an enrobing manufacturing line on one (1) parcel of real property located at 89 Mill Street in the Village and Town of Liberty, County of Sullivan, State of New York and identified on the Town of Liberty tax map as Section 113, Block 3, Lot 5.3 (“2006 Facility” and together with the 2002 Facility, the 2003 Facility, the 2004 Facility and the 2005 Facility, the “Facility” or the “2006 Expansion Project” and together with the 2002

¹ The tax map references in this resolution are based on the tax map references in place at the time the referenced resolution was adopted. During the pendency of this Project, parcels have been subdivided, combined and annexed from the Town of Liberty to the Village of Liberty. The tax parcels currently included in the Project are set forth herein.

Expansion Project, the 2003 Expansion Project, the 2004 Expansion Project and the 2005 Expansion Project, the “Project”); and

WHEREAS, on or about March 22, 2006, the Agency and Ideal Corp. entered into a Second Omnibus Amendment to Project Documents (“2006 Omnibus Amendment”) to provide for the appointment of Ideal Corp. as agent of the Agency to construct and equip the 2006 Expansion Project and amend the Project Documents (hereinafter defined) to (i) include the 2006 Expansion Project where appropriate; and (ii) increase to the Total Value Subject to PILOT (as defined in the PILOT Agreement) in the PILOT Agreement; and

WHEREAS, the Agency and Ideal Inc. entered into certain agreements facilitating the 2002 Expansion Project, 2003 Expansion Project, the 2004 Expansion Project, the 2005 Expansion Project and 2006 Expansion Project, which agreements include, but are not limited to the following:

Agent Agreement, dated as of February 19, 2002 by and between the Agency and Ideal Inc., as amended by that certain Amended Agent Agreement, dated October 1, 2002 and effective as of February 19, 2002 by and between the Agency and Ideal Inc. and as further, amended by the 2005 Omnibus Amendment, as further amended by the 2006 Omnibus Amendment.

Bill of Sale to Agency, dated as of August 1, 2003 by and between the Agency and Ideal Inc., as amended by the 2005 Omnibus Amendment (“2002 Expansion Project Agency Bill of Sale”) and as further amended by the 2006 Omnibus Amendment (“2006 Expansion Project Agency Bill of Sale”);

Bill of Sale to Company, dated as of August 1, 2003 by and between the Agency and Ideal Inc., as amended by the 2005 Omnibus Amendment (“2002 Expansion Project Company Bill of Sale”) and as further amended by the 2006 Omnibus Amendment (“2006 Expansion Project Company Bill of Sale”);

Lease to Agency, dated as of August 1, 2003 by and between the Agency and Ideal Inc. and memorandum thereof of even date therewith recorded with the Office of the Clerk of Sullivan County on August 3, 2003 in Liber 2616 at Page 433, as amended by the 2005 Omnibus Amendment (“2002 Expansion Project Lease to Agency”) and as further amended by the 2006 Omnibus Amendment (“2006 Expansion Project Lease to Agency”);

Leaseback to Company, dated as of August 1, 2003 by and between the Agency and Ideal Inc. and memorandum thereof of even date therewith recorded with the Office of the Clerk of Sullivan County

on August 3, 2003 in Liber 2616 at Page 438, as amended by the 2005 Omnibus Amendment (“2002 Expansion Project Leaseback to Company”) and as further amended by the 2006 Omnibus Amendment (“2006 Expansion Project Leaseback to Company”);

Payment in Lieu of Tax Agreement, dated as of August 1, 2003 by and between the Agency and Ideal Inc., as amended and restated by that certain Amended and Restated Payment in Lieu of Tax Agreement, dated as of December 1, 2003 by and between the Agency and Ideal Inc., as further amended and restated by that certain Second Amended and Restated Payment in Lieu of Tax Agreement, dated as of December 1, 2004 by and between the Agency and Ideal Inc., as further amended by the 2005 Omnibus Amendment and as further amended by the 2006 Omnibus Amendment (collectively, the “PILOT Agreement”);

Agent Agreement, dated as of December 1, 2003 by and between the Agency and Ideal Inc., as amended and restated by that certain First Amended and Restated Agent Agreement, dated as of December 1, 2004, as further amended by the 2005 Omnibus Amendment and as further amended by the 2006 Omnibus Amendment (collectively, the “Agent Agreement”);

Bill of Sale to Agency, dated as of December 1, 2003 by and between the Agency and Ideal Inc., as amended by the 2005 Omnibus Amendment and as further amended by the 2006 (“2006 Expansion Project Agency Bill of Sale”);

Bill of Sale to Company, dated as of December 1, 2003 by and between the Agency and Ideal Inc., as amended by the 2005 Omnibus Amendment and as further amended by the 2006 (“2006 Expansion Project Company Bill of Sale”);

Lease to Agency, dated as of December 1, 2003 by and between the Agency and Ideal Inc. and memorandum thereof of even date therewith recorded with the Office of the Clerk of Sullivan County on January 20, 2004 in Liber 2705 at Page 92, as amended and restated by that certain First Amended and Restated Lease to Agency, dated as of December 1, 2004 by and between the Agency and Ideal Inc. and memorandum thereof of even date therewith recorded with the Office of the Clerk of Sullivan County December 30, 2004 in Liber 2895 at Page 15, as further amended by the 2005 Omnibus Amendment and as further amended by the 2006 Omnibus Amendment (“2006 Expansion Project Lease to Agency”);

Leaseback to Company, dated as of December 1, 2003 by and between the Agency and Ideal Inc. and memorandum thereof of even date therewith recorded with the Office of the Clerk of Sullivan County on January 20, 2004 in Liber 2705 at Page 116, as amended and restated by that certain First Amended and Restated Leaseback to Company, dated as of December 1, 2004 by and between the Agency and Ideal Inc. and memorandum thereof of even date therewith recorded with the Office of the Clerk of Sullivan County on December 30, 2004 in Liber 2895 at Page 36, as further amended by the 2005 Omnibus Amendment and as further amended by the 2006 Omnibus Amendment (“2006 Expansion Project Leaseback to Company”). Each of the foregoing documents are collectively referred to herein as the “2006 Project Documents”.

WHEREAS, on September 13, 2011 the Agency adopted a resolution authorizing the Company to obtain a loan from Sovereign in an amount not to exceed \$22,000,000 Dollars secured in part by a mortgage on the Facility in the amount of \$8,000,000 Dollars; and

WHEREAS, on or about September 21, 2011, AmSouth was paid off making the 2005 Omnibus Amendment no longer relevant; and

WHEREAS, on or about September 21, 2011, the Agency and Ideal Corp. entered into a Third Omnibus Amendment to 2006 Project Documents (“2011 Omnibus Amendment”) to amend the 2006 Project Documents to provide that the Agency will endeavor to provide a copy of any notice which the Agency delivers to the Company (as defined in the 2006 Project Documents) under the Project Document to Sovereign (“2011 Project Documents”); and

WHEREAS, on or about March 7, 2012 (and supplemented on October 22, 2012) the Company presented applications to the Agency, copies of which are on file at the office of the Agency (collectively, “2012 Application”) requesting the Agency undertake an additional expansion project consisting of (i) the construction, installation and equipping of an approximately 41,000± square foot expansion (“2012 Expansion”); and (ii) lease to Agency of an additional parcel of real estate acquired for use in connection with the Pre-2012 Facility, namely that parcel identified on the Town tax map as Section 113, Block 3, Lot 5.1 (“Bowling Alley Parcel”); and

WHEREAS, by resolutions duly adopted on March 27, 2012 and November 26, 2012 (“2012 Resolutions”), the Agency approved the project contemplated by the 2012 Application (“2012 Expansion”); and

WHEREAS, on or about February 1, 2013, the Agency and Ideal Corp. entered into a Fourth Omnibus Amendment to Project Documents (“2013 Omnibus Amendment”) to amend the Project Documents to make provision for the 2012 Project; and

WHEREAS, the Company (i) constructed, installed and equipped a two (2) story manufacturing warehouse building to consist of 41,000± square feet expansion (“2012 Building”)

and together with the First Expansion Building and the Second Expansion Building collectively, the “Building”) situate on one (1) parcel of real estate consisting of approximately 6.9^v acres to be located at 89 Mill Street in the Village, Town, County, State and identified on the tax map as Town Section 113, Block 3, Lot 5.1 (“2012 Land” and together with the Pre-2012 Land collectively, the “Land”) and related facilities a leasehold interest in which the Agency is to acquire; (ii) acquired and installed thereon and therein of certain furniture, fixtures, machinery, equipment and tools (“2012 Equipment” and together with the Second Expansion Equipment collectively, the “Equipment”); (iii) constructed improvements to the Building, the Land and the Equipment (collectively, the Building, the Land and the Equipment are referred to as the “2012 Facility” or the “2012 Project” and together with the Pre-2012 Facility and the Pre-2012 Project collectively, the “Facility” or the “Project”); (iv) leased the 2012 Facility to the Agency; and (v) the 2012 Facility leased back from the Agency (“2013 Project Documents” and together with the 2006 Project Documents and 2011 Project Documents, the “Project Documents”); and

WHEREAS, to accomplish the purposes described in the 2013 Omnibus Amendment, Ideal Corp. and the Agency entered into the following documents:

Second Amended and Restated Agent Agreement;
Second Amended and Restated Lease to Agency;
Second Amended and Restated Leaseback to Company;
Bill of Sale to Agency;
Bill of Sale to Company; and
Third Amended and Restated Payment in Lieu of Tax Agreement; and

WHEREAS, as of the date of this resolution, the Land is comprised of the following tax map designations:

113.-2-3
113.-3-1.1
113.-1-10
113.-2-2
113.-2-6
113.-3-5.1

WHEREAS, on February 28, 2020, Frito-Lay, Inc. (“Frito”) completed the acquisition of BFY Brands, Inc., the owner of Better For You Brands (“BFY”). Ideal Corp. was a subsidiary of BFY; and

WHEREAS, Frito desires to transfer the Land from the Company to Frito and to transfer the Company’s rights in and to the Project and Project Documents to Frito; and

WHEREAS, Frito has requested that the existing Project Documents be replaced with a Lease, Leaseback and PILOT Agreement on terms identical to the existing Project Documents to create a direct contractual relationship between Frito and the Agency with such new documents to be effective as of the date of the transfer of Land from the Company to Frito; and

WHEREAS, the Leaseback Agreement between the Company and the Agency provides in applicable part:

“6.3. Maintaining Existence and Assignment and Subleasing.

(a) The Company agrees during the Lease Term, it will maintain its existence, will not dissolve, liquidate or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another corporation or permit one or more corporations to consolidate with or merge into it, without the prior written consent of the Agency which consent will not be unreasonably withheld or delayed in each instance.”

; and

WHEREAS, the Agency wishes to consent to Frito becoming the successor to the Company with respect to the transactions described herein and authorize the execution of new superseding documents creating a direct contractual relationship between Frito and the Agency on the terms and conditions hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AGENCY AS FOLLOWS:

Section 1. The Agency hereby consents to Frito becoming the successor to the Company with respect to the agreements set forth herein, conditioned upon (i) Frito and the Agency entering into a superseding Lease, Leaseback, PILOT and support documents so as to establish a direct contractual relationship with the Agency; (ii) payment by Frito to the Agency of a consent fee in the amount of FIVE THOUSAND and 00/100 (\$5,000.00) DOLLARS; and (iii) payment of any and all costs or fees incurred by the Agency in furtherance of these resolutions.

Section 2. The Chairman, Executive Director or Chief Executive Officer of the Agency, each acting individually, are each hereby authorized, on behalf of the Agency, to execute and deliver any and all documents necessary to establish a direct contractual relationship between Frito and the Agency.

Section 3. 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, documents, and 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 on behalf of the Agency desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all the terms, covenants and provisions of the documents for and on behalf of the Agency.

Section 4. 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:

Ira Steingart	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Suzanne Loughlin	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Edward T. Sykes	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Howard Siegel	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Scott Smith	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Paul Guenther	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Joseph Perrello	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Carol Roig	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

The resolution was thereupon duly adopted.

STATE OF NEW YORK :
:SS
COUNTY OF SULLIVAN :

I, the undersigned (Assistant) Secretary of the Agency DO HEREBY CERTIFY THAT:

1. I have compared the foregoing copy of a resolution of the Agency with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.
2. Such resolution was passed at a meeting of the Agency duly convened via conference call on October 19, 2020 at 11:00 a.m. at which the following members were present:

	<u>PRESENT</u>	<u>ABSENT</u>
Ira Steingart	[]	[]
Suzanne Loughlin	[]	[]
Edward T. Sykes	[]	[]
Howard Siegel	[]	[]
Scott Smith	[]	[]
Paul Guenther	[]	[]
Joseph Perrello	[]	[]
Carol Roig	[]	[]

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

Ira Steingart	[] Yes	[] No	[] Absent	[] Abstain
Suzanne Loughlin	[] Yes	[] No	[] Absent	[] Abstain
Edward T. Sykes	[] Yes	[] No	[] Absent	[] Abstain
Howard Siegel	[] Yes	[] No	[] Absent	[] Abstain
Scott Smith	[] Yes	[] No	[] Absent	[] Abstain
Paul Guenther	[] Yes	[] No	[] Absent	[] Abstain
Joseph Perrello	[] Yes	[] No	[] Absent	[] Abstain
Carol Roig	[] Yes	[] No	[] Absent	[] 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 (c) and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public via videoconferencing and public notice of the time and place of said meeting was duly given in accordance with such Sections 103(a) and (c) and 104, (iii) the meeting in all respects was duly held via teleconference as authorized by New York Governor Andrew Cuomo's Executive Order No. 202.67, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the 19th day of October, 2020.

Secretary