

RESOLUTION NO. 23-15

A RESOLUTION OF THE PINELLAS COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY (DOING BUSINESS AS THE PINELLAS COUNTY ECONOMIC DEVELOPMENT AUTHORITY) (THE "ISSUER") APPROVING THE ISSUANCE OF ITS NOT TO EXCEED \$10,000,000 INDUSTRIAL DEVELOPMENT REVENUE BONDS (O.L. PRODUCTS PROJECT), SERIES 2023 (THE "BONDS"), IN ONE OR MORE SERIES, EITHER TAXABLE OR TAX-EXEMPT, OR BOTH; APPROVING THE PROJECT; AUTHORIZING THE ISSUANCE AND SALE OF THE BONDS FOR THE PURPOSE OF PROVIDING FUNDS TO MAKE A LOAN TO RACETRACK 430, LLC, A FLORIDA LIMITED LIABILITY COMPANY, TO FINANCE AND REFINANCE, INCLUDING THROUGH REIMBURSEMENT, THE ACQUISITION, CONSTRUCTION, RENOVATION, IMPROVEMENT, EXPANSION AND EQUIPPING OF A MANUFACTURING FACILITY; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A FINANCING AGREEMENT AND A MEMORANDUM OF AGREEMENT; AWARDING THE SALE OF THE BONDS BY A NEGOTIATED SALE TO WELLS FARGO BANK, NATIONAL ASSOCIATION; APPROVING THE FORM OF THE BONDS; AUTHORIZING OFFICIALS OF THE ISSUER TO TAKE CERTAIN ACTION IN CONNECTION WITH THE ISSUANCE OF THE BONDS; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Pinellas County Industrial Development Authority (doing business as the Pinellas County Economic Development Authority) (the "Issuer") is authorized and empowered under and pursuant to the provisions of the Constitution and laws of the State of Florida (the "State"), Chapter 159, Parts II, III and VII, Florida Statutes, and other applicable provisions of law (collectively, the "Act");

WHEREAS, the Act further authorizes the Issuer to lend the proceeds derived from the sale of bonds and to enter into financing agreements in order to evidence such loans;

WHEREAS, the Issuer has been requested by Racetrack 430, LLC (the "Borrower"), a Florida limited liability company, duly organized and existing under the laws of the State, to assist the Borrower by making a loan for the purpose of the financing and refinancing, including through reimbursement, (i) the acquisition, construction, renovation, improvement, expansion and equipping of manufacturing facilities located at 430 Race Track Road North, Oldsmar, Florida

34677, including (a) the construction and equipping of a new approximately 50,265 square foot building and (b) the construction, renovation, improvement, expansion and equipping of an existing building from approximately 22,250 square feet to approximately 36,923 square feet (collectively, the "Facilities"), both to be used for the manufacturing of tanning and personal care products and related manufacturing purposes (collectively "Manufacturing"); (ii) the refinancing of a conventional taxable term loan from Wells Fargo Bank, National Association (the "Purchaser"), to the Borrower, entered into on June 23, 2017, the proceeds of which were applied by the Borrower to finance and refinance the acquisition and improvement of the approximately 4.5 acres of land on which the Facilities will be located; (iii) funding a debt service reserve fund, if deemed necessary or desirable; (iv) paying capitalized interest, if deemed necessary or desirable; and (v) paying certain Bond issuance costs (collectively, the "Project");

WHEREAS, the Borrower will own the Facilities and lease them to a related entity, O.L. Products, Inc., a Florida corporation ("O.L. Products"), or a different affiliated or related entity, for the primary purpose of Manufacturing;

WHEREAS, the Issuer has been advised by the Borrower that the Borrower has received a proposal from the Purchaser to purchase all of the Bonds pursuant to the Financing Agreement (as hereinafter defined); and

WHEREAS, it is necessary and desirable to approve the form of and authorize the execution of a Financing Agreement and a Memorandum of Agreement (each, as hereinafter defined).

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE PINELLAS COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY THAT:

SECTION 1. AUTHORITY FOR THIS RESOLUTION. This resolution, hereinafter called the "Resolution," is adopted pursuant to the Act.

SECTION 2. DEFINITIONS. Unless the context otherwise requires, the terms used in this Resolution in capitalized form and not otherwise defined herein shall have the meanings specified in the Financing Agreement the substantially final form attached hereto as Exhibit A (the "Financing Agreement"), and in the form of the Memorandum of Agreement (the "Memorandum of Agreement") in substantially the final form attached hereto as Exhibit B. Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. "Chair" as used herein refers to both the Chair and Vice Chair of the Issuer unless specifically indicated otherwise. Throughout this Resolution when reference is made to "Chair" the Chair or Vice Chair may act independently and interchangeably in performing the duties and functions resolved herein.

SECTION 3. INTERPRETATION. Whenever in this Resolution any governmental unit or body, including the Issuer, or any officer, director, board, department, commission, or agency of a governmental unit or body is defined or referred to, such definition or reference shall be deemed to

include the governmental unit or body or officer, director, board, department, commission or agency succeeding to or in whom or which is vested, the functions, rights, powers, duties and obligations of such governmental unit or body or officer, director, board, department, commission or agency, as the case may be, encompassed by this Resolution.

Unless the context shall clearly indicate otherwise in this Resolution: (i) references to sections and other subdivisions, whether by number or letter or otherwise, are to the respective or corresponding sections and subdivisions of this Resolution; (ii) the terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, refer to this Resolution only and to this Resolution as a whole and not to any particular section or subdivision hereof; and (iii) the term "heretofore" means before the date of adoption of this Resolution; the word "now" means at the time of enactment of this Resolution; and the term "hereafter" means after the date of adoption of this Resolution.

SECTION 4. FINDINGS. Upon consideration of the documents described herein and the information presented to the Issuer at or prior to the date hereof, it is hereby ascertained, determined and declared as follows:

A. The Project is appropriate to the needs and circumstances of, and will make a contribution to the economic growth of Pinellas County, Florida (the "County"), will assist in providing employment through the manufacturing of its products to residents of the County, will preserve gainful employment, and will serve a public purpose, consistent with Article VII, Section 10(c) of the Florida Constitution, by advancing the economic prosperity and the general welfare of the Issuer, the State, and the people thereof, and in particular, the issuance of the Bonds is in the common interest of the people of the County.

B. As of the date hereof, the Borrower has represented and shown that it is financially responsible and fully capable of and willing to fulfill any obligations which it may incur in connection with the financing of the Project as contemplated by this Resolution.

C. Based solely upon representations of the Borrower, the County and the City of Oldsmar, Florida, as applicable, will be able to cope satisfactorily with the impact of the Project and has provided, or shall cause to be provided when needed, the public facilities, including utilities and public services, that will be necessary for the construction, continued operation, repair and maintenance of the Project and on account of any increases in population or other circumstances resulting therefrom.

D. The Financing Agreement makes provision for the operation, repair and maintenance of the Project at the expense of the Borrower and for the payment of the principal and interest on the Bonds and all other costs incurred by the Issuer in connection with the Bonds and the Project.

E. Based upon the information provided by the Borrower to the Issuer, the Project constitutes a "project" as defined in the Act and the proceeds of the Bonds shall only be expended on "costs" of a "project" within the meaning of Act.

F. The Issuer has been advised that due to the desire to coordinate the sale of the Bonds and due to the limited market for obligations such as the Bonds, it is in the best interest of the Borrower to sell the Bonds by negotiated sale, and the Issuer, wishing to obtain the best interest rate on the Bonds for the benefit of the Borrower, has determined to sell the Bonds by negotiated sale to the Purchaser, permitting the Issuer to enter such market at the most advantageous time, rather than at a specified advertised date, and accordingly it is in the best interest of the Issuer that a negotiated sale of the Bonds be authorized.

G. The Issuer is not obligated to pay the Bonds except from the proceeds derived from the repayment of the loan of the proceeds of the Bonds to the Borrower, or from the other security pledged, and neither the faith and credit of the Issuer, the County, the State or any political subdivision thereof, nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal and purchase price of, premium, if any, or the interest on the Bonds. The Issuer has no taxing power.

H. The Purchaser has provided, or prior to the issuance of the Bonds will provide, to the Issuer a disclosure statement containing the information required by Section 218.385(6), Florida Statutes.

I. A public hearing was held by the Board of County Commissioners of Pinellas County, Florida (the "Pinellas Commission") concerning the issuance of the Bonds to finance and refinance, including through reimbursement, the Project, at which time comments and discussions from interested persons were solicited and heard, on even date herewith, after and pursuant to appropriate publication of notice thereof posted by the Pinellas Commission on the County's website, at least seven (7) days prior to the date of the public hearing, which notice remained posted through the date of the public hearing.

J. Following the public hearing, issuance of the Bonds was approved by the Pinellas Commission by its adoption of a Resolution on even date herewith. The Pinellas Commission is the elected legislative body of the County and for the purposes of the Act and the Code has jurisdiction over the area in which the Project is located.

K. It is necessary and desirable and in the best interest of the Issuer that the Issuer and the Borrower enter into a Memorandum of Agreement (the "Memorandum of Agreement"), providing among other things for the issuance of the Bonds by the Issuer and the sale of the Bonds to the Purchaser; for the use and application of the proceeds of the issuance and sale of the Bonds to pay all or any part of the "cost" (as defined in the Act) of the Project, to the extent of such proceeds; and for the loan of the proceeds of the sale of the Bonds by the Issuer to the Borrower pursuant to the Financing Agreement requiring the Borrower to pay the loan in installments sufficient to pay all

of the interest, principal, redemption premiums (if any) and other costs due under and pursuant to the Bonds when and as the same become due and payable, to operate, repair and maintain the Project at the Borrower's own expense, and to pay all other costs incurred by the Issuer in connection with the financing and administration of the Project which are not paid out of Bond proceeds or otherwise.

SECTION 5. APPROVAL OF PROJECT. The issuance of industrial development revenue bonds, in one or more series, either taxable or tax-exempt, or both, in the aggregate principal amount of not to exceed \$10,000,000 for the benefit of the Borrower is hereby approved. The Project financed with the proceeds of the Bonds will be located within the city limits of the City of Oldsmar, Pinellas County, Florida. The Borrower will own the Project and lease it to O.L. Products, or a different affiliated or related entity, for the primary purpose of Manufacturing.

SECTION 6. AUTHORIZATION OF BONDS. For the purpose of making the loan to the Borrower, there is hereby approved and authorized to be issued under this Resolution the Bonds, in one or more series, either taxable or tax-exempt, or both, in the aggregate principal amount of not to exceed \$10,000,000, and to be designated the "Pinellas County Industrial Development Issuer Industrial Development Revenue Bonds (O.L. Products Project), Series 2023," or a similar designation approved by the Chair, such approval to be conclusively presumed by the execution thereof by the Chair. The Bonds shall be issued as fully registered Bonds, shall be dated as of the date of issuance, shall mature, shall bear interest at the rate and shall have such other terms and conditions, and shall be in the form of, the Bonds as provided in the Financing Agreement, with such changes, alterations and corrections as may be approved by the Chair, such approval to be conclusively presumed by the execution thereof by the Chair.

SECTION 7. BOND REGISTER. The Bonds shall be registered as to principal and interest in the name of the Purchaser provided that the Bonds may be transferred at the office of the Issuer by surrender of such Bonds for cancellation, accompanied by a written instrument of transfer, in form satisfactory to the Issuer, duly executed by the registered owner in person or by his duly authorized agent, and thereupon the Issuer will issue and deliver to the owner thereof at his expense, in the name of the transferee or transferees, a new registered Bond, having the same terms as the Bond so surrendered. Upon any transfer of the Bonds the Issuer will keep or cause to be kept a bond register for the registration and transfer of ownership of the Bonds, and, upon presentation for such purpose, the Issuer shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred such Bond on the bond register. In every case of a transfer of a Bond, the surrendered Bond shall be canceled by the Issuer.

SECTION 8. MEMORANDUM OF AGREEMENT. The Chair or the Vice Chair is hereby authorized and directed to (i) execute the Memorandum of Agreement, in substantially the form attached hereto as Exhibit B, with such changes, alterations and corrections as may be approved by the Chair, such approval to be conclusively presumed by the execution thereof by the Chair, in the name of and on behalf of the Issuer, and (ii) to affix thereto the official seal of the Issuer, and to deliver the Memorandum of Agreement to the Borrower.

SECTION 9. MUTILATED, LOST, STOLEN OR DESTROYED BONDS. In case a Bond shall become mutilated or be lost, stolen or destroyed, the Issuer shall cause to be executed and furnished to the owner a new Bond in exchange and substitution for, and upon the cancellation of, the mutilated Bond or in lieu of and substitution for such lost, stolen or destroyed Bond. In every case the applicant shall furnish evidence satisfactory to the Issuer of the destruction, theft or loss of such Bond and indemnity satisfactory to the Issuer, and the Issuer shall charge the applicant for the issuance of such new Bond an amount sufficient to reimburse it for any expense incurred by it in the issuance thereof.

SECTION 10. LIMITED OBLIGATION. The Bonds are not a general obligation of the Issuer but are limited obligations payable solely from the collateral and security of the Borrower pledged to the payment thereof pursuant to the Financing Agreement, received from or on behalf of the Borrower (the "Borrower's Collateral and Security"). The Bonds shall not be an obligation of the State or of any political subdivision thereof, other than the Issuer (limited as aforesaid), and any and all payments of any nature thereunder shall be payable only from amounts provided for such purpose under the Bond Documents and not from other funds of the Issuer.

SECTION 11. COVENANT TO PERFORM. The Issuer shall faithfully perform at all times all of its covenants, undertakings and agreements contained in this Resolution, in the Financing Agreement, in the Bonds or in any proceedings of the Issuer pertaining thereto. The Issuer represents that it is duly authorized under the Constitution and laws of the State, particularly the Act, to issue the Bonds and to adopt this Resolution, and to execute the Financing Agreement and the Memorandum of Agreement and pledge the revenues, receipts, proceeds and funds derived in respect thereof, in the manner and to the extent herein set forth as security for the Bonds; that all action on its part for the issuance of the Bonds and the adoption of this Resolution has been duly and effectively taken; and that the Bonds will be a valid and enforceable limited obligation of the Issuer according to their terms.

SECTION 12. COVENANT AS TO THE BORROWER. The Issuer covenants that it will fulfill its obligations, and it authorizes the Purchaser to require the Borrower to perform the duties and obligations of the Borrower, under the Financing Agreement and the Memorandum of Agreement, it being understood that the Issuer has no obligation to pay debt service on the Bonds or any other amounts to Purchaser or its successors or assigns, such being the obligation solely of the Borrower. The Issuer shall promptly notify the Purchaser of any actual or alleged Default of which it has actual knowledge and shall not execute or agree to any change, amendment, modification or supplement of or to any Bond Document, except as is provided in the Bond Documents.

SECTION 13. ENFORCEMENT OF THE AGREEMENT. The Purchaser may enforce all obligations of the Borrower, and may exercise all rights (except Reserved Issuer Rights) of the Issuer specified under the Bond Documents whether or not the Issuer is in default thereunder.

SECTION 14. AMENDMENTS. No amendment to this Resolution shall become effective unless and until the Borrower and the Purchaser shall have consented thereto in writing.

SECTION 15. DISCHARGE OF BONDS. If the Borrower shall pay and discharge the entire indebtedness on the Bonds by fully paying or causing to be paid the principal of and interest on the Bonds, as and when the same become due and payable and if the Borrower shall also pay or provide for the payment of all other sums payable hereunder by the Issuer or the Borrower, then and in that case this Resolution shall cease, determine and become null and void as to the Bonds.

SECTION 16. LIMITED LIABILITY OF ISSUER. Anything in this Resolution or the Bond Documents to the contrary notwithstanding, the performance by the Issuer of all duties and obligations imposed upon it hereby, the exercise by it of all powers granted to it hereunder, the carrying out of all covenants, agreements and promises made by it hereunder, and the liability of the Issuer for all warranties and other covenants hereunder, shall be limited solely to the Borrower's Collateral and Security, and the Issuer shall not be required to effectuate any of its duties, obligations, powers or covenants hereunder except to the extent of the Borrower's Collateral and Security.

SECTION 17. NO PERSONAL LIABILITY. No recourse under or upon any obligation, covenant or agreement contained in this Resolution, the Bonds, any other Bond Document or under any judgment, or by the enforcement of any assessment or by legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, under or independent of this Resolution, shall be had against any member, agent, employee or officer, as such, past, present or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the holder of the Bonds or otherwise of any sum that may be due and unpaid by the Issuer upon the Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any member or officer, as such, to respond by reason of any act or omission on his part or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the holder of the Bonds or otherwise, of any sum that may remain due and unpaid upon the Bonds is hereby expressly waived and released as a condition of and in consideration for the execution of this Resolution and the issuance of the Bonds.

SECTION 18. BONDS NOT A DEBT OF STATE OR ISSUER. None of the State, the County, any political subdivision thereof, or the Issuer shall in any event be liable for the payment of the principal of or interest on the Bonds, except that the Issuer has provided for payment from the special and limited sources as provided in the Bond Documents. The Bonds issued hereunder shall never constitute an indebtedness of the State or of any political subdivision of the State or of the County or the Issuer within the meaning of any state constitutional provisions or statutory limitation and shall never constitute or give rise to the pecuniary liability of the State or any political subdivision thereof, the County or of the Issuer or a charge against their general credit. The holder of the Bonds shall not have the right to compel any exercise of the ad valorem taxing

power of the State or of any political subdivision of said State to pay the Bonds or the interest thereon. The Issuer has no taxing power.

SECTION 19. LAWS GOVERNING. This Resolution shall be governed exclusively by the provisions hereof and by the applicable laws of the State.

SECTION 20. THE FINANCING AGREEMENT. The Financing Agreement in the form attached hereto as Exhibit A, with such changes, alterations and corrections as may be approved by the Chair, such approval to be conclusively presumed by the execution thereof by the Chair and the Executive Director, is hereby approved by the Issuer, and the Issuer hereby authorizes and directs the Chair to execute the Financing Agreement, simultaneous with the issuance of the Bonds, and to deliver the Financing Agreement to the Borrower, all of the provisions of which, when executed and delivered by the Issuer as authorized herein, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein.

SECTION 21. SALE OF BONDS. The Bonds are hereby awarded to the Purchaser upon the terms and conditions set forth in the Financing Agreement, a copy of which is attached hereto as Exhibit A, and the Memorandum of Agreement, the form of which is attached hereto as Exhibit B. Prior to the execution of the Financing Agreement and the Memorandum of Agreement, the Purchaser shall file with the Issuer the disclosure and truth-in-bonding statements required by Section 218.385, Florida Statutes.

SECTION 22. COVENANT REGARDING TAX-EXEMPT STATUS OF SERIES 2023A BOND. The Issuer covenants that it will not knowingly take any action, or knowingly fail to take any action, and will not fail to take any action reasonably requested by Bond Counsel, the Purchaser or the Borrower, and will not take any action which Bond Counsel, the Purchaser or the Borrower reasonably requests it not to take, if any such action or failure to take action would adversely affect the exclusion from gross income of interest on the Series 2023A Bond for federal income tax purposes.

SECTION 23. VOLUME CAP. The Issuer does hereby elect to have the provisions of Section 144(a)(4) of the United States Internal Revenue Code of 1986, as amended, increasing the small issue limitation from \$1,000,000 to \$10,000,000, apply to the Series 2023A Bond and the authorized officers are hereby authorized and directed to evidence such election by filing a copy of this Resolution in the official records of the Issuer. Bond Counsel is authorized to apply for volume cap for the Series 2023A Bond from the Division of Bond Finance, State of Florida.

SECTION 24. NOTICES. Any notice, request, complaint, demand, communication or other paper given under or with respect to any Bond Document shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail to the Notice Address of the Issuer.

SECTION 25. NO THIRD PARTY BENEFICIARIES. Except as herein or in the documents herein mentioned otherwise expressly provided, nothing in this Resolution or in such documents, express or implied, is intended or shall be construed to confer upon any Person other than the Issuer, the Purchaser and the Borrower any right, remedy or claim, legal or equitable, under and by reason of this Resolution or any provision hereof or of such documents; this Resolution and such documents being intended to be and being for the sole and exclusive benefit of such parties.

SECTION 26. PREREQUISITES PERFORMED. All acts, conditions and prerequisites relating to the passage of this Resolution and required by the Constitution or laws of the State to happen, exist and be performed precedent to and in the passage hereof have happened, exist and have been performed as so required.

SECTION 27. GENERAL AUTHORITY. The Chair, the Executive Director and the other officers and employees of the Issuer are hereby authorized to do all acts and things required of them by this Resolution and the other Bond Documents and to execute, acknowledge and deliver all documents as may in their discretion be deemed necessary or desirable to carry out and comply with the terms and provisions of this Resolution or desirable or consistent with the requirements hereof or thereof, for the full punctual and complete performance of all terms, covenants and agreements contained in the Bonds, this Resolution and the other Bond Documents.

SECTION 28. RESOLUTION CONSTITUTES A CONTRACT. The Issuer covenants and agrees that this Resolution shall constitute a contract between the Issuer and the holders from time to time of the Bonds and that all covenants and agreements set forth herein and in the Bond Documents and to be performed by the Issuer shall be for the benefit and security of the holder of the Bonds.

SECTION 29. SEVERABILITY. If any one or more of the covenants, agreements, or provisions contained herein or in the Bonds shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements, or provisions hereof and thereof and shall in no way affect the validity of any of the other provisions of this Resolution or of the Bonds.

SECTION 30. REPEALER. All resolutions or ordinances or parts thereof of the Issuer in conflict with the provisions herein contained are, to the extent of any such conflict, hereby superseded and repealed.

SECTION 31. LIMITED APPROVAL. The approval given herein shall not be construed as (i) an endorsement of the creditworthiness of the Borrower or the financial viability of the Project, (ii) a recommendation to any prospective purchaser of the Bonds, (iii) an evaluation of the likelihood of the repayment of the debt service on the Bonds, or (iv) approval of any necessary rezoning applications or approval or acquiescence to the alteration of existing zoning or land use

nor approval for any other regulatory permits relating to the Project, and the Issuer shall not be construed by reason of its adoption of this Resolution to have made any such endorsement, finding or recommendation or to have waived any of the Issuer's rights or estopping the Issuer from asserting any rights or responsibilities it may have in that regard.

SECTION 32. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage and adoption.

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DULY PASSED AND ADOPTED by the Pinellas County Industrial Development Issuer on this 28th day of February, 2023.

PINELLAS COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY d/b/a
PINELLAS COUNTY ECONOMIC
DEVELOPMENT AUTHORITY

(SEAL)

By: _____
Name: Dr. Cynthia Johnson
Title: Executive Director

By: Janet C. Long
Name: Janet C. Long
Title: Chair

Approved ~~as per~~ **APPROVED AS TO FORM**:
By: Donald S. Crowell
Office of the County Attorney
By: _____
Office of the County Attorney

ATTEST: KEN BURKE, CLERK
By: Ken Burke
Deputy Clerk

