

A regular meeting of the Broome County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Broome County Public Library in the City of Binghamton, Broome County, New York on Wednesday, August 17, 2016 at 12:00 o'clock p.m., local time.

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

PRESENT:

Terrence M. Kane	Chairman
Wayne L. Howard	Vice Chairman
James G. Rounds, Jr.	Secretary
John J. Stevens	Treasurer
John M. Bernardo	Member
Stephen P. Feehan	Member
Diane M. Marusich	Member
Richard A. Bucci	Member

ABSENT: Lamont T. Pinker Member

THE FOLLOWING PERSONS WERE ALSO PRESENT:

Kevin McLaughlin	Executive Director
Joseph B. Meagher, Esq.	Agency Counsel

The following resolution was offered by Mr. Howard, seconded by Mr. Bernardo, to wit:

RESOLUTION AUTHORIZING A LEASE/LEASEBACK TRANSACTION TO FACILITATE THE FINANCING OF THE ACQUISITION, CONSTRUCTION, EQUIPPING AND LEASING OF A CERTAIN COMMERCIAL PROJECT FOR DICK'S MERCHANDISING & SUPPLY CHAIN, INC. (THE "COMPANY"), INCLUDING A PAYMENT IN LIEU OF TAX AGREEMENT DEVIATING FROM THE AGENCY'S UNIFORM TAX EXEMPTION POLICY AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS WITH RESPECT THERETO.

WHEREAS, the Broome County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of 1969 Laws of New York, constituting 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 564 of the 1970 Laws of New York, as amended, constituting Section 895-a 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, recreation and civic facilities, among others, for the purpose of promoting, attracting and developing 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, to improve their 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 and install one or more "projects" (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, pursuant to an application (the "Application") submitted to the Agency by Dick's Merchandising & Supply Chain, Inc. (the "Company"), the members of the Agency, on June 15, 2016, adopted a resolution accepting the application of and authorizing a public hearing to be held on a project consisting of the following: (A) (1) the acquisition of a parcel of land located on the Broome Corporate Parkway, Town of Conklin, Broome County, New York (the "Land"), (2) the construction on the Land of a 650,000+/-square foot warehouse/distribution center, adjacent parking lots, associated utilities, an access road, and storm water management systems to be used as a distribution center (the "Facility"), and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the "Equipment") (the Land, the Facility and the Equipment being hereinafter collectively referred to as the "Project"), all of the foregoing to be leased by the Company as a distribution center and any other directly or indirectly related activities; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales taxes and real property taxes (collectively, the "Financial Assistance"); and (c) the lease (with an obligation to purchase) of the Project to the Company or such other person or entity as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, in compliance with the provisions of Section 859-a of the Act, the undertakings of the Agency are contingent upon the Agency making a determination to proceed with the Project following compliance by the Agency with the public notice and public hearing requirements set forth in Section 859-a of the Act; and

WHEREAS, pursuant to the above authorization, the Executive Director of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the "Public Hearing"), to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on July 21, 2016 to the chief executive officers of Broome County, the Town of Conklin, and the Susquehanna Valley School District in which the Project is to be located, (B) caused notice of the public hearing to be published on July 23, 2016 in the Press and Sun Bulletin, a newspaper of general circulation available to residents of the Town of Conklin, Broome County, New York, (C) caused notice of the public hearing to be posted on July 25, 2016 at the Town of Conklin Town Hall, Broome County, New York, (D) conducted the Public Hearing on August 8, 2016 at 12:00 o'clock p.m., local time, at the Town of Conklin Town Hall in the Town of Conklin, Broome County, New York, and (E) prepared a report of the Public Hearing (the "Report") which fairly summarized the views presented at said Public Hearing and distributed same to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended, and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, "SEQRA"), the Agency has determined that the Project constitutes an "unlisted action" that will not have a "significant effect on the environment" (as such quoted terms are defined in SEQRA); and

WHEREAS, in order to complete the documentation necessary to consummate the aforesaid Project described in the Notice of Public Hearing, the Agency proposes to enter into the following documents (hereinafter collectively referred to as the "Agency Documents"):

- (A) lease agreement (and a memorandum thereof) (the "Lease Agreement") by and between the Agency and the Company, pursuant to which, among other things, the Agency acquires an interest in the Project;
- (B) leaseback agreement (and a memorandum thereof) (the "Leaseback Agreement") by and between the Agency and the Company pursuant to which, among other things, the Company agrees to undertake and complete the Project as agent of the Agency and the Company further agrees to lease the Project from the Agency and, as rental thereof, to pay the Agency's administrative fee relating to the Project and pay all expenses incurred by the Agency with respect to the Project;
- (C) the payment-in-lieu-of-tax Agreement deviating from the Agency's Uniform Tax Exemption Policy (the "PILOT Agreement") by and among the Company and the Agency, pursuant to which the Company agrees to make payments in lieu of taxes with respect to the Project as set forth in Exhibit "A" attached hereto;
- (D) agency agreement (the "Agency Agreement") authorizing the Company to act as the agent of the Agency for the purposes of the acquisition, constructing and equipping of the Project; and
- (E) sales tax exemption letter (the "Sales Tax Exemption Letter") exempting the Company from sales tax for purchases related to the Project which would, otherwise, be subject to such tax; and
- (F) any and all documents necessary to effect this transaction (the "Closing Documents.")

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

Section 1. 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 Project constitutes a "project," as such term is defined in the Act; and
- (C) The acquisition, construction and equipping of the Project and the lease of the Project to the Company will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Broome County, New York and the State of New York and improve their standard of living; and
- (D) Having reviewed the Report of the Public Hearing and having fully considered all comments contained therein, the Agency hereby further determines that it is desirable and in the public interest for the Agency to proceed with the Project and enter into the Agency Documents.

Section 2. In consequence of the foregoing, the Agency hereby determines to: (A) proceed with the Project; (B) acquire by lease the Land, the Facility and all other improvements now or hereafter located on the Land (collectively, the "Project") from the Company; (C) construct and equip the Project, or cause the Project to be constructed and equipped; (D) leaseback the Project to the Company pursuant to the Leaseback Agreement between the Agency and the Company pursuant to which, among other things, the Company shall be obligated (1) to pay all costs incurred by the Agency with respect to the Project, including all costs of operation and maintenance, all taxes and other governmental charges, any required payments in lieu of taxes, and the reasonable fees and expenses incurred by the Agency with respect to or in connection with the Project, and (2) to comply with the provisions of the Act applicable to beneficiaries of financial assistance from the Agency; and (E) enter into the PILOT Agreement deviating from the Agency's Uniform Tax Exempt Policy and incorporating the payment schedule attached hereto as Exhibit "A."

Section 3. The Agency is hereby authorized to (A) acquire a leasehold interest in the Project pursuant to a lease agreement (the "Lease Agreement") from the Company to the Agency, and (B) acquire title to the Equipment pursuant to a bill of sale (the "Bill of Sale ") from the Company to the Agency and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisitions are hereby approved, ratified and confirmed.

Section 4. The Agency is hereby authorized to acquire, construct and equip the Project described in the Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition, construction and equipping are hereby approved, ratified and confirmed.

Section 5. The form and substance of the Agency Documents (in substantially the forms presented to this meeting) are hereby approved.

Section 6. (A) The Chairman, Vice Chairman, Secretary, or Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Agency Documents and, where appropriate, the Secretary of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in substantially the forms thereof presented to this meeting, with such changes, variations, omissions and insertions thereto as the Chairman, Vice Chairman, Secretary, or Executive Director shall approve, the execution thereof by the Chairman, Vice Chairman, Secretary, or Executive Director to constitute conclusive evidence of such approval.

(B) The Chairman, Vice Chairman, Secretary, or Executive Director of the Agency are hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 7. 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 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 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 8. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote which resulted as follows:

Terrence M. Kane	voting	Yes
Wayne L. Howard	voting	Yes
John J. Stevens	voting	Yes
John M. Bernardo	voting	Yes
Stephen P. Feehan	voting	Yes
Diane M. Marusich	voting	Yes
Lamont T. Pinker	voting	Absent
Richard A. Bucci	voting	Yes

The Resolution was thereupon declared duly adopted.

STATE OF NEW YORK:

ss.:

COUNTY OF BROOME:

I, the undersigned Secretary of Broome County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the annexed extract of the minutes of the meeting of the Agency, including the Resolution contained therein, held on August 17, 2016, with the original thereof on file in my office, and that the same is a true and correct copy of said original and of the whole of such proceedings of the Agency and of such Resolution set forth therein and insofar as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting, (B) said meeting was in all respects duly held, (C) pursuant to Article 7 of the Public Officers Law (the "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 Article 7, and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 17<sup>th</sup> day of August, 2016.

  
James G. Rounds, Jr.  
Secretary

(SEAL)

EXHIBIT "A"

SEE ATTACHED PILOT PAYMENT SCHEDULE

## DICKS SPORTING GOODS PROPOSED PILOT

<u>Year</u>	<u>Exemption</u>
1	100%
2	100%
3	100%
4	90%
5	90%
6	90%
7	90%
8	90%
9	90%
10	90%
11	75%
12	75%
13	75%
14	75%
15	75%
16	50%
17	50%
18	50%
19	50%
20	50%
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29	25%
30	25%