

A regular meeting of the Broome County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at FIVE South College Drive, Town of Dickinson, Broome County, New York on Wednesday, August 18, 2021, 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:	John M. Bernardo	Chairman
	James R. Peduto	Vice Chairman
	Richard A. Bucci	Secretary
	Daniel E. Crocker	Treasurer
	Cheryl I. Sacco	Member
	Brian Rose	Member
	Daniel W. Gates	Member
	Stephen K. Cornwell	Member
ABSENT:	Joseph Mirabito	Member
	Stephen K. Cornwell	Member

THE FOLLOWING PERSONS WERE ALSO PRESENT:

Stacey M. Duncan	Executive Director
Joseph B. Meagher, Esq.	Agency Counsel

The following resolution was offered by Mr. Bucci, seconded by Mr. Peduto, to wit:

RESOLUTION AUTHORIZING A LEASE/LEASEBACK TRANSACTION TO FACILITATE THE FINANCING OF THE ACQUISITION, CONSTRUCTION, REHABILITATION, RENOVATION AND EQUIPPING OF A PORTION OF THE OAKDALE MALL LOCATED ON HARRY L. DRIVE AND REYNOLDS ROAD IN THE VILLAGE OF JOHNSON CITY, TOWN OF UNION, COUNTY OF BROOME AND STATE OF NEW YORK TO BE USED AS A MIXED-USE DEVELOPMENT PROJECT INCLUDING, BUT NOT LIMITED TO, RETAIL, OFFICE AND COMMERCIAL SPACE AND APPOINTING SPARK JC, LLC (THE "COMPANY"), AS AGENT OF THE AGENCY FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, REHABILITATING, RENOVATING AND EQUIPPING THE PROJECT AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS WITH RESPECT THERETO, INCLUDING A PAYMENT IN LIEU OF TAX AGREEMENT DEVIATING FROM THE AGENCY'S UNIFORM TAX EXEMPTION POLICY, A SALES AND USE TAX EXEMPTION IN AN AMOUNT NOT TO EXCEED \$3,093,333.00, A MORTGAGE TAX EXEMPTION IN AN AMOUNT NOT TO EXCEED \$933,234.00, AND A PROPERTY TAX EXEMPTION IN AN AMOUNT NOT TO EXCEED \$5,371,776.32, PURSUANT TO A PILOT SCHEDULE ATTACHED HERETO AS EXHIBIT "A".

WHEREAS, the Broome County Industrial Development Agency (the "Agency") is

authorized and empowered by the provisions of Chapter 1030 of the 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 submitted to the Agency by the Company, the members of the Agency, on August 4, 2021, adopted a resolution (the "Resolution") accepting an application to consider undertaking a project (the "Project") consisting of the following: (A) (1) the acquisition by lease of a portion of the Oakdale Mall located on Harry L. Drive and Reynolds Road in the Village of Johnson City, Town of Union, County of Broome and State of New York (the "Land"), (2) the construction, rehabilitation, renovation and equipping on the Land of a mixed-use development project including, but not limited to, retail space (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 utilized by the Company as a mixed-use development project including, but not limited to, retail space 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 and use taxes in an amount not to exceed \$3,093,333.00, mortgage tax in an amount not to exceed \$933,234.00, and real property taxes, including a deviation from the Agency's Uniform Tax Exemption Policy, in an amount not to exceed \$5,371,776.32 (collectively, the "Financial Assistance"); (C) the lease of the Project from the Company to the Agency; and (D) the lease of the Project from the Agency back to the Company or such other person(s) or entity(ies) 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 Resolution indicated that the undertakings of the Agency contained therein 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 authorization contained in the Resolution, the Chairman 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 August 5, 2021 to the chief executive officers of the village, town, school district and county in which the Project is to be located, (B) caused notice of the Public Hearing to be posted at the Village Hall, 243 Main Street in the Village of Johnson City, Town of Union, Broome County, New

York on August 5, 2021, (C) caused notice of the Public Hearing to be published on August 7, 2021 in The Press and Sun Bulletin, a newspaper of general circulation available to residents of the Village of Johnson City, (D) conducted the Public Hearing on August 16, 2021 at 5:00 o'clock p.m., local time, at the Village Hall in the Village of Johnson City, Town of Union, 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, the Village of Johnson City has submitted a written request that the Agency grant a Payment-In-Lieu-Of-Tax Agreement ("PILOT Agreement") deviating from the Agency's Uniform Tax-Exemption Policy. A copy of the approved PILOT payment schedule is attached hereto as Exhibit "A"; 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) a lease agreement (and a memorandum thereof) (the "Lease Agreement") by the Company to the Agency, pursuant to which, among other things, the Agency acquires an interest in the Project;
- (B) a leaseback agreement (and a memorandum thereof) (the "Leaseback Agreement") by the Agency to 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 back from the Agency and, as rental thereunder, to pay the Agency's administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project;
- (C) a payment-in-lieu-of-tax agreement, deviating from the Agency's Uniform Tax Exemption Policy, (the "PILOT Agreement") by and between 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; and
- (D) a project agreement (the "Project Agreement") by and between the Company and the Agency;
- (E) an agency agreement (the "Agency Agreement") authorizing the Company to act as the agent of the Agency for the purpose of the acquisition, construction, rehabilitation, renovation and equipping of the Project;
- (F) a sales tax exemption agreement exempting the Company from sales and use tax for purchases related to the Project which would, otherwise, be subject to tax in an amount not to exceed \$3,093,333.00; and

- (G) a mortgage tax exemption affidavit exempting the Company from mortgage tax for a mortgage related to the Project which would, otherwise, be subject to mortgage tax in an amount not to exceed \$933,234.00;
- (H) any and all documents necessary to affect this Project (the “Closing Documents”).

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE 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, rehabilitation, renovation and equipping of the Project, the lease of the Project by the Company to the Agency and the lease of the Project by the Agency back 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) The grant of enhanced benefits in the form of a deviation from the Agency’s Uniform Tax Exemption Policy are based upon the following findings:

- (i) The need for additional significant drivers of employment and economic activity within the Village of Johnson City, Broome County area;
- (ii) The availability of the Project site for development;
- (iii) The current economic condition of Broome County;
- (iv) The value of the proposed deviation from the Agency’s Uniform Tax Exemption Policy;
- (v) The impact that the Project and the proposed tax exemptions will have on the affected tax jurisdiction;
- (vi) The impact of the proposed Project on existing and proposed businesses and economic development in the Broome County area;
- (vii) The amount of private sector investment in the Project;
- (viii) The additional sources of revenue that will be provided for the taxing jurisdictions by the Project; and
- (ix) The extent to which the Project will provide an economic benefit not otherwise available within the Village of Johnson City and the County of Broome.

(E) 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 the Project from the Company pursuant to the Lease Agreement; (C) construct, rehabilitate, renovate and equip the Project, or cause the Project to be constructed, rehabilitated, renovated and equipped; (D) lease the Project back 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 Exemption Policy.

SECTION 3. The Agency is hereby authorized to acquire (A) a leasehold interest in the Project pursuant to the Lease Agreement by the Company to the Agency, and (B) title to the Equipment pursuant to a bill of sale (the "Bill of Sale") by 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 construct, rehabilitate, renovate 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 construction, rehabilitation, renovation 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. 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.

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 on roll call, which resulted as follows:

John M. Bernardo	voting	Aye
James R. Peduto	voting	Aye
Richard A. Bucci	voting	Aye
Daniel E. Crocker	voting	Aye
Cheryl I. Sacco	voting	Abstained
Brian Rose	voting	Aye
Joseph Mirabito	voting	Absent
Daniel W. Gates	voting	Aye
Stephen K. Cornwell	voting	Absent

The Resolution was thereupon declared duly adopted.

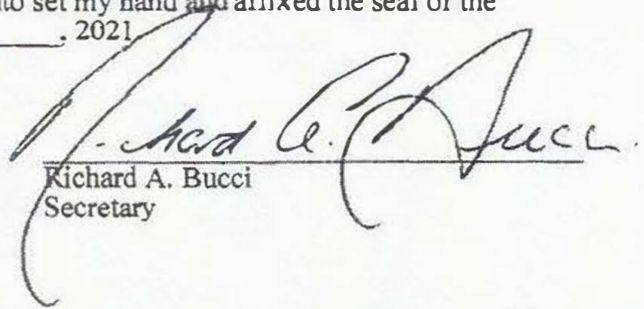
COUNTY OF BROOME:

I, the undersigned Secretary of the Broome County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the annexed extract of the minutes of the regular meeting of the Agency, including the Resolution contained therein, held on August 18, 2021, 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 27 day of August, 2021.



Richard A. Bucci  
Secretary

(SEAL)

EXHIBIT "A"

(SEE ATTACHED PILOT SCHEDULE)



**PILOT Schedule**

Property Address: Harry L. Drive, and Reynolds Rd, Johnson City NY

Property Owner: Spark JC, LLC

\* WITH PILOT

\* WITHOUT PILOT

PILOT Year	Annual PILOT Payment TOTAL	Annual PILOT PAID TO COUNTY	Annual PILOT PAID TO TOWN	Annual PILOT PAID TO JC VILLAGE	Annual PILOT PAID TO JC SCHOOL	Assessed Full Value at 4.02% Tax Rate	Full Value	Payment at County Tax Rate 172.10977	Payment at Town Tax Rate 25.78785	Payment at JC Village Tax Rate 363.518	Payment at JC School Tax Rate 613.215939	Total Tax rate 1174.63156	Annual TOTAL Difference
1	\$489,000	\$71,649.43	\$10,735.50	\$151,332.82	\$255,282.26	\$572,969	\$14,252,960.00	\$98,613.56	\$14,775.64	\$208,284.54	\$351,353.72	\$673,027.46	\$184,027.46
2	\$489,000	\$71,649.43	\$10,735.50	\$151,332.82	\$255,282.26	\$572,969	\$14,252,960.00	\$99,599.70	\$14,923.39	\$210,367.39	\$354,867.26	\$679,757.73	\$190,757.73
3	\$489,000	\$71,649.43	\$10,735.50	\$151,332.82	\$255,282.26	\$572,969	\$14,252,960.00	\$100,595.69	\$15,072.63	\$212,471.06	\$358,415.93	\$686,555.31	\$197,555.31
4	\$489,000	\$71,649.43	\$10,735.50	\$151,332.82	\$255,282.26	\$572,969	\$14,252,960.00	\$101,601.65	\$15,223.36	\$214,595.77	\$362,000.09	\$693,420.87	\$204,420.87
5	\$489,000	\$71,649.43	\$10,735.50	\$151,332.82	\$255,282.26	\$572,969	\$14,252,960.00	\$102,617.67	\$15,375.59	\$216,741.73	\$365,620.09	\$700,355.07	\$211,355.07
6	\$613,987	\$89,962.81	\$13,479.46	\$190,013.05	\$320,531.67	\$653,369	\$16,252,960.00	\$118,187.33	\$17,708.45	\$249,626.86	\$421,093.78	\$806,616.41	\$192,629.41
7	\$632,977	\$92,745.27	\$13,896.37	\$195,889.96	\$330,445.39	\$653,369	\$16,252,960.00	\$119,369.20	\$17,885.53	\$252,123.13	\$425,304.71	\$814,682.57	\$181,705.57
8	\$652,553	\$95,613.60	\$14,326.14	\$201,948.23	\$340,665.03	\$673,469	\$16,752,960.00	\$124,271.84	\$18,620.11	\$262,478.14	\$442,772.52	\$848,142.62	\$195,589.62
9	\$672,735	\$98,570.71	\$14,769.22	\$208,194.03	\$351,201.04	\$673,469	\$16,752,960.00	\$125,514.56	\$18,806.32	\$265,102.92	\$447,200.24	\$856,624.04	\$183,889.04
10	\$693,542	\$101,619.40	\$15,226.01	\$214,633.26	\$362,063.33	\$693,569	\$17,252,960.00	\$130,553.21	\$19,561.28	\$275,745.19	\$465,152.62	\$891,012.30	\$197,470.30
11	\$714,991	\$104,762.16	\$15,696.91	\$221,271.17	\$373,260.77	\$693,569	\$17,252,960.00	\$131,858.74	\$19,756.89	\$278,502.65	\$469,804.14	\$899,922.42	\$184,931.42
12	\$737,104	\$108,002.21	\$16,182.37	\$228,114.57	\$384,804.85	\$713,669	\$17,752,960.00	\$137,036.88	\$20,532.75	\$289,439.54	\$488,253.51	\$935,262.68	\$198,158.68
13	\$759,901	\$111,342.48	\$16,682.86	\$235,169.65	\$396,706.02	\$713,669	\$17,752,960.00	\$138,407.25	\$20,738.08	\$292,333.94	\$493,136.04	\$944,615.31	\$184,714.31
14	\$783,404	\$114,786.19	\$17,198.84	\$242,443.22	\$408,975.75	\$733,769	\$18,252,960.00	\$143,728.45	\$21,535.37	\$303,572.99	\$512,095.13	\$980,931.95	\$197,527.95
15	\$807,663	\$118,340.68	\$17,731.43	\$249,950.75	\$421,640.15	\$733,769	\$18,252,960.00	\$145,165.73	\$21,750.72	\$306,608.72	\$517,216.09	\$990,741.27	\$183,078.27
16	\$832,611	\$121,996.12	\$18,279.13	\$257,671.51	\$434,664.24	\$753,869	\$18,752,960.00	\$150,633.65	\$22,570.00	\$318,157.68	\$536,697.93	\$1,028,059.27	\$195,448.27
17	\$858,362	\$125,769.21	\$18,844.47	\$265,640.77	\$448,107.54	\$773,969	\$19,252,960.00	\$156,196.42	\$23,403.49	\$329,906.95	\$556,517.69	\$1,066,024.55	\$207,662.55
18	\$884,909	\$129,658.94	\$19,427.28	\$273,856.38	\$461,966.39	\$794,069	\$19,752,960.00	\$161,855.37	\$24,251.40	\$341,859.39	\$576,680.18	\$1,104,646.34	\$219,737.34
19	\$912,277	\$133,668.96	\$20,028.12	\$282,326.07	\$476,253.85	\$814,169	\$20,252,960.00	\$167,611.89	\$25,113.92	\$354,017.89	\$597,190.27	\$1,143,933.95	\$231,656.95
20	\$940,492	\$137,803.09	\$20,647.55	\$291,057.88	\$490,983.48	\$834,269	\$20,752,960.00	\$173,467.34	\$25,991.26	\$366,385.37	\$618,052.89	\$1,183,896.86	\$243,404.86
21	\$969,579	\$142,064.99	\$21,286.13	\$300,059.55	\$506,168.33	\$854,369	\$21,252,960.00	\$179,423.15	\$26,883.64	\$378,964.80	\$639,273.04	\$1,224,544.63	\$254,965.63
22	\$999,566	\$146,458.75	\$21,944.46	\$309,339.75	\$521,823.03	\$874,469	\$21,752,960.00	\$185,480.73	\$27,791.27	\$391,759.18	\$660,855.79	\$1,265,886.97	\$266,320.97
23	\$1,030,481	\$150,988.49	\$22,623.17	\$318,907.14	\$537,962.20	\$894,569	\$22,252,960.00	\$191,641.51	\$28,714.36	\$404,771.55	\$682,806.27	\$1,307,933.70	\$277,452.70
24	\$1,062,351	\$155,658.16	\$23,322.84	\$328,770.08	\$554,599.92	\$914,669	\$22,752,960.00	\$197,906.96	\$29,653.14	\$418,005.00	\$705,129.67	\$1,350,694.77	\$288,343.77
25	\$1,095,208	\$160,472.44	\$24,044.19	\$338,938.47	\$571,752.90	\$934,769	\$23,252,960.00	\$204,278.56	\$30,607.82	\$431,462.63	\$727,831.26	\$1,394,180.27	\$298,972.27
<b>TOTALS</b>	<b>\$19,099,693.00</b>	<b>\$2,798,531.81</b>	<b>\$419,314.45</b>	<b>\$5,910,860</b>	<b>\$9,970,987.18</b>	<b>\$18,243,725</b>	<b>\$453,824,000.00</b>	<b>\$3,585,617.04</b>	<b>\$537,246.41</b>	<b>\$7,573,285.01</b>	<b>\$12,775,320.86</b>	<b>\$24,471,469.32</b>	<b>\$5,371,776.32</b>

1. Pilot will include Main Mall, Former Macy's Parcel and Key Bank parcel
2. If JC Penney lease is terminated, this parcel will make additional pilot payment at a rate equal to the same cost per square foot as the Main Mall, Macy's parcel and Key Bank parcel.
3. During the development of the project, if any of the project site is subdivided, or if outparcels are created and wholly owned and operated by Spark JC, LLC, an affiliate of Spark JC, LLC, or an unaffiliated third party, buildings constructed thereon, such parcels will be taxed pursuant to a Pilot at a rate equal to the same cost per square foot of leasable area as is taxed pursuant to the Pilot for the Main Mall, Macy's Parcel and Key Bank.
4. If all or a substantial portion of the site is sold to an unaffiliated third party within ten years upon closing the pilot, the IDA Board must consent and approve of the transfer of the pilot agreement.