

A regular meeting of the County of Chautauqua Industrial Development Agency (the "Agency") was convened in public session at Jamestown Community College, Hamilton Collegiate Center (COCE), 525 Falconer Street, Jamestown, NY, 14701, Board Room, on August 19, 2008 at 10:00 a.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:

Mike Piazza	Chairman
David Bryant	Member
Kim Peterson	Member
Greg DeCinque	Member
Dennis Rak	Member
Doreen Sixbey	Member
Chuck Cornell	Member

ABSENT:

Richard Star	Secretary
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THE FOLLOWING PERSONS WERE ALSO PRESENT:

William J. Daly	Administrative Director/CEO
Richard E. Dixon	Chief Financial Officer
Jonathan P. Taber, Esq.	Special Counsel
George Cregg	Bond Counsel
Carol Rasmussen	CCIDA Board Asst. Secretary
Kristine Morabito	CCIDA Staff
Lawrence Taylor	CCIDA Staff
Susan Casel	CCIDA Staff

The following resolution no. 08-19-08-04 was offered by David Bryant, seconded by Doreen Sixbey:

Resolution No. 08-19-08-04

**RESOLUTION TAKING OFFICIAL ACTION TOWARD AND APPROVING THE
ACQUISITION AND STRAIGHT LEASING OF A CERTAIN PROJECT
FOR NATIONAL BEDDING COMPANY L.L.C.**

WHEREAS, the County of Chautauqua Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of Laws of 1969 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 71 of the 1972 Laws of New York, as amended, constituting Section 895-h 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 and recreation 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, National Bedding Company L.L.C., a limited liability company organized and existing under the laws of the State of Illinois and qualified to do business as a foreign limited liability company in the State of New York (the "Applicant"), presented an application (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Project") consisting of the following: (A) (1) the acquisition of an interest in an approximately 15.6 acre parcel of land located at 2375 Parkway Drive, Falconer, Town of Ellicott, County of Chautauqua, New York (collectively, the "Land"), (2) the renovation of the existing approximately 87,500 square foot building located on the Land and the construction of an approximately 35,000 square foot addition thereto (collectively, the "Building"), together with parking and related improvements to the Land, and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (the "Equipment"), all of the foregoing for use by the Applicant as a manufacturing and warehousing facility (collectively, the "Project Facility"); (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 or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes (but not including special assessments and ad valorem levies) (collectively, the "Financial Assistance"); and (C) the lease (with an

obligation to purchase) or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, in accordance with Section 859-a of the Act, any approval of the Project is contingent upon, inter alia, a determination by the members of the Agency to proceed with the Project following a determination by the Agency that (A) the public hearing and notice requirements and other procedural requirements contained in the Act relating to the Project have been satisfied; and (B) the undertaking of the Project by the Agency and the granting of the Financial Assistance are and will be in compliance with all other applicable requirements of SEQRA (as hereinafter defined), and all other statutes, codes, laws, rules and regulations of any governmental authority having jurisdiction over the Project (collectively, "Applicable Laws"); and

WHEREAS, the Administrative 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 contemplated by the Agency with respect to the Project, to be mailed on July 16, 2008 to the chief executive officer of County of Chautauqua, New York (the "County") and of each other affected tax jurisdiction within which the Project Facility is or is to be located; (B) caused notice of the Public Hearing to be published on July 19, 2008 in *The Post Journal*, a newspaper of general circulation available to residents of the Town of Ellicott and the County; (C) conducted the Public Hearing on August 18, 2008 at 10:00 a.m., local time, at Town of Ellicott Town Hall, 215 South Work Street, Falconer, Town of Ellicott, County of Chautauqua, New York; and (D) prepared a report of the Public Hearing (the "Report") which fairly summarizes the views presented at the Public Hearing and distributed the Report to the members of the Agency; and

WHEREAS, the Administrative Director of the Agency (A) caused notice of a meeting of the Agency (the "IDA Meeting") with respect to the proposed deviation from the Agency's uniform tax exemption policy and guidelines to be mailed on July 17, 2008 to the chief executive officer of each affected tax jurisdiction; and (B) conducted the IDA Meeting on the date hereof and reviewed and responded to any comments or correspondence received from the affected tax jurisdictions at or before the IDA Meeting regarding the proposed deviation from the Agency's uniform tax exemption policy and approved the proposed deviation immediately prior to the adoption of this Resolution; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act"), and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), the appropriate personnel of the Agency reviewed the environmental assessment form and other materials submitted by the Applicant and made any necessary comments to members of the Agency, and by resolution of the members of the Agency adopted on the date hereof, the Agency decided to undertake an uncoordinated review of

the Project, determined that the Project will not have a significant effect on the environment and issued a negative declaration for purposes of SEQRA; and

WHEREAS, the Agency now desires to make its determination to proceed with the Project and to grant the Financial Assistance, subject to the terms hereof; and

WHEREAS, the Applicant will (A) execute and deliver a certain bargain and sale deed (the "Deed") from the Applicant to the Agency, pursuant to which the Applicant will convey its interest in the Land and the Building to the Agency; (B) execute and deliver a certain Bill of Sale (the "Bill of Sale to Agency") from the Applicant to the Agency, pursuant to which the Applicant will convey to the Agency its interest in the Equipment; (C) execute and deliver a certain Lease Agreement (the "Lease") between the Agency and the Applicant, pursuant to which the Agency will grant to the Applicant a leasehold interest in the Project Facility; (D) execute and deliver a certain Payment in Lieu of Taxes Agreement (the "PILOT Agreement") between the Applicant and the Agency; and (E) execute and deliver certain other certificates, documents, instruments and agreements related to the Project (together with the Deed, the Bill of Sale to Agency, the Lease and the PILOT Agreement, collectively, the "Transaction Documents");

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

Section 1. The Agency has reviewed the Application and the Report and, based upon the representations made by the Applicant to the Agency, the Agency hereby makes the following findings and determinations with respect to the Project:

(a) based on the proposed use of the Project Facility as set forth in the Application, the economic effects of the Project on the area in which it is situated, and the employment reasonably expected to be created and/or maintained by the Project, and an analysis of how the Project contributes to the realization of the public purposes of promoting employment opportunities in the County and the prevent of economic deterioration in the County, the Project will constitute a commercial facility with a significant impact on the area in which it is situated, and will advance the Agency's purposes by promoting employment opportunities and preventing economic deterioration in the County. Therefore, the Project constitutes a "project" within the meaning of the Act;

(b) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Applicant to undertake the Project in the County;

(c) the completion of the Project Facility, the lease thereof by the Agency to the Applicant, and the operation thereof by the Applicant will not result in the removal of a facility or plant of the Applicant or any other occupant or user of the Project Facility from one area of the State of New York (the

“State”) to another area of the State or in the abandonment of one or more plants or facilities of the Applicant or any other occupant or user located within the State (but outside of the County);

(d) the Project does not and will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project;

(e) the Project will serve the public purposes of the Act by preserving permanent, private sector jobs and increasing the overall number of permanent, private sector jobs in the State;

(f) no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State, nor shall any funds of the Agency be used for advertising or promotional materials which depict elected or appointed government officials in either print or electronic media; and

(g) the granting of the Financial Assistance by the Agency with respect to the Project will encourage and assist the Applicant in undertaking the Project in the County, will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the County and the State and improve their standard of living, and thereby serve the public purposes of the Act.

Section 2. The Agency hereby ratifies, confirms and approves all actions heretofore taken by the Administrative Director and the staff of the Agency with respect to the Application, the Public Hearing and the IDA Meeting, including, without limitation, (a) those actions required to ensure full compliance with the requirements of the Act and all other Applicable Laws that relate to the Project, and (b) the appointment of the law firm of Phillips Lytle LLP, Jamestown, New York, as Special Counsel to the Agency with respect to all matters in connection with the Project.

Section 3. The Agency hereby determines that the Agency has fully complied with the requirements of the Act and all other Applicable Laws that relate to the Project.

Section 4. Having considered fully all comments received at or in connection with the Public Hearing, the Agency hereby further determines to proceed with the Project and the granting of the Financial Assistance, subject to the terms hereof.

Section 5. The Agency hereby approves the Applicant as the lessee under the Lease with the Agency and as the recipient of the Financial Assistance.

Section 6. The Agency is hereby authorized (a) to acquire an interest in the Project Facility pursuant to the Deed, the Bill of Sale to Agency and the other Transaction Documents, (b) grant a leasehold interest in the Project Facility pursuant to the Lease and the other Transaction Documents, (c) grant the Financial Assistance, and (d) do all things necessary, convenient or appropriate for the accomplishment thereof. All acts heretofore taken by the Agency with respect to the foregoing are hereby approved, ratified and confirmed.

Section 7. The form and substance of the Deed, the Bill of Sale to Agency, the Lease, the PILOT Agreement and the other Transaction Documents, in the forms presented to the members of the Agency at this meeting, together with such non-material changes as the Chairman, the Vice Chairman or the Administrative Director may hereafter deem necessary or appropriate, are hereby approved. The Chairman, the Vice Chairman and the Administrative Director are hereby authorized, on behalf of the Agency, acting together or individually, to execute and deliver the Lease, the PILOT Agreement and the other Transaction Documents to which the Agency is a party and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same. The execution and delivery of each such agreement, approval and consent by such person(s) shall be conclusive evidence of such approval.

Section 8. The Chairman, the Vice Chairman and the Administrative Director of the Agency are hereby further authorized, on behalf of the Agency, acting together or individually, to designate any additional Authorized Representatives (as defined in the Lease) of the Agency.

Section 9. The officers, employees and agents of the Agency are hereby authorized and directed, acting individually or jointly, 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 Transaction Documents, to execute and deliver all such additional certificates, instruments, agreements 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, convenient or appropriate to effect the purposes of this Resolution and to cause compliance with all of the terms, covenants and provisions of the Transaction Documents to which the Agency is a party or which are binding on the Agency.

Section 10. The Chairman, the Vice Chairman and the Administrative Director of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 11. 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:

Mike Piazza	VOTING	<u>AYE</u>
Richard Star	VOTING	<u>ABSENT</u>
David Bryant	VOTING	<u>AYE</u>
Kim Peterson	VOTING	<u>AYE</u>
Greg DeCinque	VOTING	<u>AYE</u>
Dennis Rak	VOTING	<u>AYE</u>
Doreen Sixbey	VOTING	<u>AYE</u>
Chuck Cornell	VOTING	<u>AYE</u>

The foregoing Resolution was thereupon declared duly adopted.

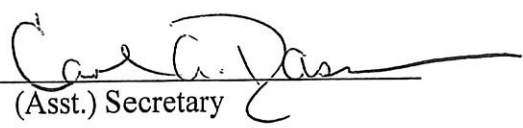
STATE OF NEW YORK)
) SS.:
COUNTY OF CHAUTAUQUA)

I, the undersigned (Asst.) Secretary of the County of Chautauqua Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on August 19, 2008, with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far 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 due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; 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 19th day of August, 2008.



(Asst.) Secretary

(SEAL)