

**WCIDA Minutes 9/12/2014-Attachment One**  
**RESOLUTION**  
*(DNT Express, Inc. Project)*

A regular meeting of Wayne County Industrial Development Agency was convened on September 12, 2014, at 9:30 a.m.

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

Resolution No. 09/2014 - \_\_\_\_\_

RESOLUTION OF THE WAYNE COUNTY INDUSTRIAL DEVELOPMENT AGENCY IN CONNECTION WITH A CERTAIN PROJECT (AS MORE PARTICULARLY DESCRIBED HEREIN) UNDERTAKEN FOR THE BENEFIT OF DNT EXPRESS, INC. (THE "COMPANY") (i) ACCEPTING THE MINUTES OF A PUBLIC HEARING; (ii) AUTHORIZING THE EXECUTION AND DELIVER A LEASE AGREEMENT, LEASEBACK AGREEMENT, PAYMENT-IN-LIEU-OF-TAX AGREEMENT AND RELATED DOCUMENTS; AND (iii) AUTHORIZING THE PROVISION OF CERTAIN FINANCIAL ASSISTANCE TO THE COMPANY (AS FURTHER DEFINED HEREIN).

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 916 of the Laws of 1969 of the State of New York, (the "Act"), the **WAYNE COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency") was created with the authority and power to promote, develop, encourage and assist in acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, civic, research, and recreational facilities as authorized by the Act, and in connection therewith to issue its revenue bonds, and/or enter into straight lease transactions and provide other forms of financial assistance; and

WHEREAS, DNT EXPRESS, INC. and DNT EXPRESS REALTY, LLC (collectively, the "Company"), have submitted an application to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of (i) the acquisition by the Agency of a leasehold interest in two parcels of real property comprised of approximately 5 acres located at 80 Davis Parkway in the Village of Clyde, New York (the "Land", being more particularly described as tax parcels 74112-15-597352 and 74112-15-566358, as may be merged) owned by DNT EXPRESS REALTY, LLC, along with the existing improvements thereon including an approximately 10,000 square foot warehouse and office facility (the "Existing Improvements"); (ii) the planning, design, and construction of modifications to the Existing Improvements and construction of an approximately 37,500 building structure adjacent to the Existing Improvements, along with external parking, curbage, landscaping and general site improvements for continued operation as a beverage warehousing and distribution facility by DNT EXPRESS, INC. (the "Improvements"); (iii) the acquisition of and installation in and around the Existing Improvements and Improvements by the Owner and Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land, the Existing Improvements and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time

and sublease such interest in the Facility back to the Owner (the "Straight Lease Transaction"); and

WHEREAS, by resolution dated July 25, 2014, the Agency adopted a resolution (the "Inducement Resolution") (i) authorizing the Company to act as its agent to undertake the Project; (ii) directed that a public hearing be held relating to the Project; (iii) and authorized the negotiation of a lease agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement"), payment-in-lieu-of-tax agreement (the "PILOT Agreement", and together with the Lease Agreement, Leaseback Agreement and related documents, the "Straight Lease Documents"); and

WHEREAS, pursuant to General Municipal Law Section 859-a, on August 26, 2014 at 9:30 a.m. local time and continued on September 11, 2014 at 9:30 a.m. local time, at the offices of Village of Clyde Village Hall, 6 South Park Street, Clyde, NY 14433, the Agency held a public hearing with respect to the Project and the proposed financial assistance (the "Financial Assistance") being contemplated by the Agency (the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views (a copy of the Minutes of the Public Hearing along with the Notice of Public Hearing published and forwarded to the affected taxing jurisdictions prior to said Public Hearing are attached hereto as Exhibit A); and

WHEREAS, the Straight Lease Documents have been negotiated and are presented to this meeting for approval and execution.

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

Section 1. The Agency hereby accepts the summary report of comments and questions received by the Agency at the Public Hearing.

Section 2. The Chairman (or Vice Chairman), Executive Director and/or Deputy Executive Director of the Agency are hereby authorized, on behalf of the Agency, to enter into the Straight Lease Documents; *provided*, that the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project.

Section 3. The Chairman (or Vice Chairman), Executive Director and/or Deputy Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by one or more lenders identified by the Company (the "Lender") up to a maximum principal amount necessary to undertake the Project, acquire the Facility and/or finance or refinance equipment and other personal property and related transactional costs (hereinafter with the Straight Lease Documents, the "Agency Documents"); and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairman (or Vice Chairman), Executive Director and/or Deputy Executive Director of the Agency shall approve, the execution thereof by the Chairman (or Vice Chairman), Executive

Director and/or Deputy Executive Director of the Agency to constitute conclusive evidence of such approval; provided, that, in all events, recourse against the Agency is limited to the Agency's interest in the Project.

Section 4. 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 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 resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 5. These Resolutions shall take effect immediately upon adoption.

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

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
David Spickerman, Sr.	XX			
James Hoffman	XX			
Willard Milliman	XX			
Pamela Heald	XX			
Robert Havrilla	XX			

The Resolutions were thereupon duly adopted.

STATE OF NEW YORK     )  
COUNTY OF WAYNE     ) ss:

I, the undersigned Assistant Secretary of the WAYNE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, DO HEREBY CERTIFY:

That I have compared the foregoing extract of the minutes of the meeting of the Wayne County Industrial Development Agency (the "Agency") including the resolutions contained therein, held on the 12<sup>th</sup> day of September, 2014, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with Article 7.

I FURTHER CERTIFY that 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 modified.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Agency this 12<sup>th</sup> day of September, 2014.

---

Assistant Secretary

[SEAL]