

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**INDUCEMENT RESOLUTION**

**FISHER-PRICE, INC.**

The annual meeting of the Erie County Industrial Development Agency was convened on Monday, May 11, 2009, 2009 at 9:15 a.m.

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

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF **FISHER-PRICE, INC.** (THE "COMPANY") IN CONNECTION WITH A CERTAIN PROJECT DESCRIBED BELOW; (ii) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iii) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (v) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF A SALES TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT AND (iv) AUTHORIZING THE NEGOTIATION AND EXECUTION OF RELATED DOCUMENTS

**WHEREAS**, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 293 of the Laws of 1970 of the State of New York, as amended (collectively, the "Act"), the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing, commercial and other facilities as authorized by the Act; and

**WHEREAS**, FISHER-PRICE, INC., for itself or on behalf of an entity formed or to be formed (the "Company") has submitted an application to the Agency (the "Application") requesting the Agency's assistance with a certain project located at 636 Girard Avenue, East Aurora, New York, Erie County (the "Project") consisting of the acquisition and installation of non-production machinery, equipment and tangible personal property, including information systems, all to be used in support of manufacturing and related operations (the "Facility"); and

**WHEREAS**, pursuant to General Municipal Law Section 859-a, public hearing requirements have been met with respect to the Project and the proposed financial assistance being contemplated by the Agency; and

**WHEREAS**, the Agency is contemplating providing financial assistance to the Company with respect to the Project (collectively, the "Financial Assistance") in the form of: (1) an exemption from all state and local sales and use taxes with respect to the qualifying personal

property included in or incorporated into the Facility or used in the acquisition, construction, renovation or equipping of the Facility, (2) the grant of one or more mortgage liens on the Agency's interest in the Facility (the "Mortgages") to secure indebtedness incurred by or for the benefit of the Company in connection with the Project, which Mortgages would be exempt from all mortgage recording taxes imposed in the State, and (3) the retention of title to or a leasehold interest in the Facility by the Agency for a period of time so as to enable the Company to enter into an agreement with the Agency regarding payments in lieu of real property taxes (the "PILOT Agreement") for the benefit of each municipality and school district having taxing jurisdiction over the Project; and

**WHEREAS**, it is contemplated that the Agency will designate the Company as its agent for the purpose of acquiring, constructing and/or renovating and equipping the Facility pursuant to an agent agreement (the "Agent Agreement"), pursuant to which the Agency will retain a leasehold interest in the Improvements, the Equipment and personal property constituting the Facility; and provide financial assistance to the Company in the form of an exemption from all New York State and local sales and use taxes with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction, reconstruction and/or renovation, rehabilitation or equipping of the Facility (the sales and use tax exemption is hereinafter referred to as the "Financial Assistance"); and

**WHEREAS**, pursuant to and in accordance with applicable provisions of the State Environmental Quality Review Act ("SEQR"), the Company has submitted to the Agency an Environmental Assessment Form (the "EAF") with respect to the Project; and

**WHEREAS**, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the Financial Assistance that the Agency is contemplating with respect to the Project.

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

Section 1. The Company has presented an application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's application and any other correspondence submitted by the Company to the Agency, 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) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and/or renovating and equipping the Project; and

(C) The Agency has the authority to take the actions contemplated herein under the Act; and

(D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing and/or retaining employment opportunities in Erie County, New York and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(F) The Project involves a "Type II Action" as said term is defined in Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, "SEQR") and therefore no further action is required under SEQR.

Section 2. Subject to the Company executing an Agent Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct and/or renovate and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; provided, however, the Agent Agreement, if utilized, shall expire one year from the date of this resolution (unless extended for good cause by the Chair, the Vice Chair, the Chief Executive Officer, the Chief Operating Officer and/or the Assistant Treasurer).

Section 3. Subject to the terms of this Inducement Resolution, the Chair, the Vice Chair, the Chief Executive Officer, the Chief Operating Officer and/or the Assistant Treasurer, are hereby authorized, on behalf of the Agency, to negotiate, execute and deliver all documents reasonably contemplated by these resolutions necessary to undertake the Project, acquire the Facility and/or finance or refinance acquisition and Project costs or equipment and other personal property and related transactional costs (hereinafter, called the "Agency Documents"); and, where appropriate, the Secretary or the 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 Chair, the Vice Chair, the Chief Executive Officer, the Chief Operating Officer and/or the Assistant Treasurer of the Agency shall approve, the execution thereof by the Chair, the Vice Chair, the Chief Executive Officer, the Chief Operating Officer and/or the Assistant Treasurer of the Agency to constitute conclusive evidence

of such approval; provided 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 negotiate, 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. The provision by the Agency of Financial Assistance with respect to the Project as described herein is subject to the execution and delivery of the Agency's Administrative Fee Agreement (the "Fee Agreement") and payment by the Company of an administrative fee calculated in accordance with the Fee Agreement, all within sixty (60) days of the date of this resolution. In the event the Agency has not received the executed Fee Agreement and the appropriate fee within such sixty (60) day period, this resolution shall become automatically null and void and of no further effect and the Agency shall have no liability to the Company hereunder or otherwise, unless extended in the discretion of the Chair, the Vice Chair, the Chief Executive Officer, the Chief Operating Officer and/or the Assistant Treasurer for good cause shown.

Section 6. This resolution shall take effect immediately, and shall expire one (1) year from the date hereof.

Dated: May 11, 2009