

## RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on June 17, 2014, at 8:30 o'clock a.m. in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

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

**PRESENT:** William Ryan, M. Catherine Richardson, Esq., Donald Schoenwald, Esq., Steven Thompson

**EXCUSED:** Pamela Hunter

The following persons were **ALSO PRESENT:** Staff Present: Benjamin Walsh, Susan Katzoff, Esq., Debra Ramsey-Burns, Thomas Babilon, Esq., Judith DeLaney, John Vavonese; Others Present: Aggie Lane, Kate Johnson, Peter King, Barry Lentz, John Akins, Lionel Logan, Shi Sha, Christine Abate, Mike Irwin, Chuck Wallace, Reggie Seigler, Rasta Muhammad, Virginia Dloan, Pastor Nebraska, Cheryl Grave, Charles Rivers, Cyrell Haygood, Joseph Davis, Louise Poindexter, Joanne Stevens, Ann Tiffany, Ed Kilnae, Diane Green, Mark Cass, Lameure Johnson, Phil Pehm, Michael Messina-Youchzy, Peter King, Claudio Dotteres, Zinora Monhimeyer, Patrice Chang; Media: John-WAER, Tim Kanuss

The following resolution was offered by Donald Schoenwald and seconded by Steven Thompson:

### **RESOLUTION APPROVING THE AGENCY'S PARTICIPATION IN THE MODIFICATION OF A LOAN AT THE REQUEST OF THE COMPANY IN CONNECTION WITH THE PROJECT FACILITY**

**WHEREAS**, the City of Syracuse Industrial Development Agency (the "*Agency*") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "*State*"), as amended (the "*Enabling Act*"), together with Section 926 of the General Municipal Law, as amended (said Section and the Enabling Act, 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 facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, 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 grant financial assistance in connection with one or more “projects” (as defined in the Act); and

**WHEREAS**, by resolution adopted on July 26, 2011 (the “*Inducement Resolution*”), the Agency approved the undertaking of a project (the “*Project*”) at the request of The Inns at Armory Square, LLC (the “*Company*”) consisting of: (A)(i) the acquisition of a leasehold interest in an approximate 1.2 acre parcel of real property located at 300-335 West Fayette Street (the “*Land*”); (ii) the construction of an approximate 140,000 square foot seven story building to house an approximate 180 room hotel and conference center, an open parking lot and parking deck (collectively containing approximately 185 parking spaces) all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation thereon of furniture, fixtures and equipment (the “*Equipment*”, together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, mortgage recording tax, and sales and use taxation (collectively, the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, improvement and equipping of the Project Facility; and (D) the lease of the Project Facility by the Agency pursuant to a lease agreement and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

**WHEREAS**, the mortgage modification is in furtherance of the financial assistance that was previously approved for the Project, which underwent an environmental review by the Agency pursuant to the State Environmental Quality Review Act (“*SEQRA*”), and the present sales tax appointment extension request is insubstantial and does not require reconsideration or further review by the Agency under SEQRA.

**WHEREAS**, in conjunction with the undertaking of the Project, the Company and the Agency entered into a mortgage dated February 24, 2012 in favor of M& T Bank in the principal amount of \$22,000,000 to secure the Company’s obligations under a corresponding note in the like amount (the “*Loan*”); and

**WHEREAS**, the Company has requested that the Agency participate in the modification of the Loan by executing a mortgage modification agreement or similar agreement as well as any other certificates, documents or affidavits required in connection therewith and in accordance with the correspondence submitted herewith by the Company (the “*Modification*”) in favor of M&T Bank (the “*Bank*”); and

**WHEREAS**, the Modification will extend the maturity date of the Loan and modify the amortization schedule; and

**WHEREAS**, the documents executed by the Agency and the Company in connection with the Project, anticipated the Agency’s participation in the Modification; and

**NOW, THEREFORE**, be it resolved by the members of the City of Syracuse Industrial Development Agency as follows:

(1) Based upon the representations made by the Company to the Agency, the Agency hereby makes the following findings and determinations:

(a) The approval, execution and delivery of the Modification will not result in a change to the Project as originally considered and therefore no further SEQRA action is required; and

(b) The Agency has the authority to, and hereby does, approve the execution and delivery of the Modification and related documents. The Chairman and/or Vice Chairman of the Agency, acting individually, are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the Modification and other documents identified in, or required to carry out the intent of, this Resolution upon the advice of counsel, and to execute and deliver any such additional certificates, instruments, documents or affidavits, to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred to herein and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this Resolution. The execution thereof by the Chairman or Vice Chairman constitutes conclusive evidence of such approval.

(2) The following are conditions precedent to the Agency's participation in the Modification documents, as set forth herein: (A) the Company will provide the Agency and its counsel with: (i) copies of all Modification documents for review, consent and approval; (ii) submit to the Agency the appropriate fee, including the Agency's legal fees associated with the Modification, in exchange for the Agency's participation therein; and (iii) provide the Agency with any and all outstanding reporting documents requested in connection with the provided Financial Assistance; and (B) the Chairman and/or Vice Chairman shall approve, upon advice of counsel, all Modification documents as set forth herein.

(3) Should the Agency's participation in the Modification be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursement of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under the Act to participate in the Modification, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

(4) No covenant, stipulation, obligation or agreement contained in this Resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

(5) The Secretary of the Agency is hereby authorized to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

(6) This Resolution shall take effect immediately. A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

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

	<u>AYE</u>	<u>NAY</u>
William Ryan	X	
M. Catherine Richardson	X	
Donald Schoenwald	X	
Steven Thompson	X	

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on June 17, 2014, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

**I FURTHER CERTIFY** that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

**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 set my hand and affixed the seal of the Agency this 30 day of July, 2014.

City of Syracuse Industrial Development Agency

  
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Steven P. Thompson, Secretary

(S E A L)