

RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on January 24, 2013 at 9:00 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, John Gamage, Pamela Hunter, Donald Schoenwald, Esq.

ABSENT: M. Catherine Richardson, Esq. (excused)

THE FOLLOWING PERSONS WERE ALSO PRESENT: **Staff:** Ben Walsh, Meghan Gaffey, Esq., Debra Ramsey-Burns, Susan Katzoff, Esq., Greg Streeter, Judith DeLaney; **Others:** John Lacey, Brenda Colella, Garth Coviello, Wendy Reese, Kerry Quaglia, Crystal Cosenhiro, Nicole Samolis, Kevin Samolis, Bruce Osterman, Brenda Colella, John Lacey, Marty Masterpole.

The following resolution was offered by John Gamage and seconded by Donald Schoenwald:

RESOLUTION APPROVING THE AGENCY'S PARTICIPATION IN THE REFINANCING OF THE CONSTRUCTION LOAN TO PERMANENT LOAN AT THE REQUEST OF THE COMPANY IN CONNECTION WITH THE COMPANY'S COSTS ASSOCIATED WITH THE PROJECT FACILITY AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH

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, civic and 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 August 17, 2010, the Agency undertook a project (the "**Project**") at the request of Hotel Skyler, LLC, limited liability company (the "**Company**") consisting of: (A)(i) the acquisition of a leasehold interest in an approximate 1.6 acre parcel of real property located at 601 South Crouse Avenue, City of Syracuse (collectively, the "**Land**"); (ii) the renovation, construction and reconstruction of an existing approximate 20,000 square foot building, such that as completed the building will be approximately 35,000 square feet, for use as a 58 room LEED certified hotel, including lobby and common area, café and wine bar (the "**Facility**"); (ii) the acquisition and installation thereon of furniture, fixtures and equipment (the "**Equipment**", and together with the Land and the Facilities, the "**Project Facility**"); and (B) the granting of certain financial assistance in the form of exemption from real property tax, mortgage recording tax and sales and use taxation (collectively, the "**Financial Assistance**"); and (C) the lease of the Project Facility by the Agency pursuant to a lease agreement and the lease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, in conjunction with the undertaking of the Project, the Company and the Agency entered into a mortgage in favor of State Employees Federal Credit Union ("**SEFCU**") in the principal amount of Three Million Nine Hundred Thousand and 00/100 (\$3,900,000.00) to secure the Company's obligations under a corresponding note in a like amount (the "**Construction Loan**"); and

WHEREAS, the Company has requested that the Agency participate in the refinancing of the Construction Loan by executing either an assignment of the existing loan documents or a new mortgage in favor of Tompkins Trust Company, or a similar lending institution, in an amount not to exceed Five Million, Five Hundred Fifty Thousand and No/100 (\$5,500,000) to secure the permanent financing of the Project (the "**Permanent Loan**") and granting a corresponding exemption from mortgage recording tax (collectively, the "**New Financial Assistance**"); and

WHEREAS, the Agency Lease dated as of November 1, 2010, executed by the Company and the Agency in connection with the Project, anticipated the Agency's participation in additional financings.

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 Agency has the authority to, and hereby does, approve and grant the requested New Financial Assistance. 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 documents and agreements identified in, or required to carry out the intent of, this Resolution and 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.

(b) As a condition precedent to the Agency's participation in the refinance and the grant of the New Financial Assistance, as set forth herein, the Company will submit to the Agency the appropriate fee, including the Agency's legal fees associated with the refinancing, in exchange for the Agency's grant of the New Financial Assistance.

(c) Should the Agency's participation in the refinancing of the mortgage on the Project Facility 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 refinance, 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.

(e) 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.

(f) 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.

(g) 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:

	AYE	NAY
William Ryan	X	
Donald Schoenwald	X	
John Gamage	X	
Pamela Hunter	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 January 24, 2013, 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 hereunto set my hand and affixed the seal of the Agency this ___ day of February, 2013.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

John Gamage, Secretary

(SEAL)