

RESOLUTION

A meeting of the City of Syracuse Industrial Development Agency was convened in public session on May 21, 2013 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, John Gamage, Pamela Hunter, M. Catherine Richardson, Esq., Donald Schoenwald, Esq.

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff Present: Ben Walsh, Susan R. Katzoff, Esq., Gregory Streeter, Judith DeLaney, Debra Ramsey-Burns, Meghan Gaffey, Esq.; Others Present: Wendy Reese, Mark McNamara, Esq., Paul Nojaim; Media: Rick Moriarity (Post Standard), Brandon Roth

The following resolution was offered by Donald Schoenwald and seconded by M. Catherine Richardson:

RESOLUTION AUTHORIZING THE RELEASE AND TRANSFER OF CERTAIN LAND FROM AN INSTALLMENT SALE AGREEMENT IN CONNECTION WITH A VOLUNTARY APPROPRIATION TO NEW YORK STATE DEPARTMENT OF TRANSPORTATION AND AUTHORIZING THE AGENCY TO EXECUTE AND DELIVER THE NECESSARY 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, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, 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, 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, At the request of Pyramid Company of Onondaga ("**PCO**"), the Agency agreed to undertake a project consisting, in part, of the expansion of Carousel Center, in one or

more phases, including, but not limited to, the issuance of bonds to fund certain costs of the expansion (the "**Project**"); and

WHEREAS, In conjunction with the undertaking of the Project, Destiny USA Holdings, LLC ("**DUSA**") and the Agency entered into an Installment Sale Agreement, dated as of February 1, 2007, as same may be amended from time to time (the "**ISA**"), governing, among other things, the parties' rights, obligations and interests in certain land and improvements thereon described therein at Exhibit "A" (the "**Expansion Parcel**"); and

WHEREAS, the Expansion Parcel includes, but is not limited to, certain on and off ramps from and to Interstate 81 in the City of Syracuse, New York and surrounding property (the "**Land**"); and

WHEREAS, DUSA has reached an agreement with the New York State Department of Transportation ("**DOT**") pursuant to which DOT has agreed to take the Land by voluntary appropriation (the "**Appropriation**"); and

WHEREAS, as the fee owner of the Expansion Parcel, including the Land, the Agency is a necessary party to the documents permitting the Appropriation by DOT; and

WHEREAS, the Appropriation would result in the transfer of title to the Land from the Agency to DOT and remove the Land from the governance of the ISA.

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

Section 1. Based upon the representations made by DUSA, the Agency hereby resolves to execute and deliver the documents necessary to effectuate the Appropriation in accordance with the terms of this Resolution.

Section 2. 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 any and all documents necessary to effectuate the Appropriation, in accordance with the intent of this Resolution, and any such additional certificates, instruments, documents, forms or affidavits (collectively, the "**Documents**"), 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, all on advice of counsel to the Agency, as may be necessary or desirable to consummate the transactions contemplated by this Resolution, condition upon the following:

a. counsel for the Agency reviewing and approving all necessary documentation and advising the Chairman and/or Vice Chairman accordingly, including but not limited to the Documents;

b. counsel for the Agency reviewing and ensuring compliance with the steps necessary, if any, under the transactional documents (including but not limited to the mortgage(s))

associated with the Project and specifically the Expansion Parcel, and DUSA agreeing to comply therewith, including but not limited to notice provisions;

c. the execution by DUSA of documentation satisfactory to the Chairman and/or Vice Chairman, upon advice of counsel to the Agency, confirming that notwithstanding the Appropriation, DUSA's obligations under the payment in lieu of taxes agreement governing the Expansion Parcel shall not be altered, changed or modified in any manner, including but not limited to amounts due thereunder;

d. the execution by DUSA of an amendment to the ISA modifying the description of the Expansion Parcel to exclude the Land and any and all other documents as the Agency may deem necessary in connection therewith;

e. the execution by DUSA of an agreement satisfactory to the Chairman and/or Vice Chairman, upon advice of counsel to the Agency, to hold the Agency harmless with respect to the Appropriation; and

f. the payment by DUSA of all fees and expenses incurred by the Agency in connection with this Resolution and the Appropriation.

Section 3. 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.

Section 4. Counsel to the Agency is hereby authorized to work with DUSA and DOT, as necessary to prepare and revise all Documents necessary to effect the actions authorized and anticipated by this Resolution.

Section 5. This Resolution shall take effect immediately. A copy of this Resolution 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	
John Gamage	X	
Pamela Hunter	X	
M. Catherine Richardson, Esq.	X	
Donald Schoenwald, Esq.	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 May 21, 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 set my hand and affixed the seal of the Agency this 18th day of June, 2013.

City of Syracuse Industrial Development Agency



John Gamage, Secretary

(S E A L)