

SETTLEMENT AGREEMENT

BY AND AMONG

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

AND

THE CITY OF SYRACUSE, NEW YORK

AND

PYRAMID COMPANY OF ONONDAGA

AND

DESTINY USA LAND COMPANY, LLC

AND

DESTINY USA HOLDINGS, LLC

AND

CAROUSEL CENTER COMPANY L.P.

Dated as of April 1, 2013

This Settlement Agreement (the “*Agreement*”) is entered into as of April 1, 2013, by and between the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation organized under the laws of the State of New York (the “**State**”), having an address at 333 West Washington Street, Suite 130, Syracuse, New York 13202 (“**SIDA**”); **THE CITY OF SYRACUSE, NEW YORK**, a body politic and corporate acting by and through its Mayor and Common Council, having an office at City Hall, 233 East Washington Street, Syracuse, New York 13202 (the “**City**”); **PYRAMID COMPANY OF ONONDAGA**, a general partnership organized under the laws of the State, having its principal office at 4 Clinton Square, Syracuse, New York 13202-1078 (“**PCO**”); **DESTINY USA LAND COMPANY, LLC**, a limited liability company organized under the laws of the State, having its principal office at c/o The Pyramid Companies, 4 Clinton Square, Syracuse, New York 13202-1078 (“**Parking Owner**”); **DESTINY USA HOLDINGS, LLC** a limited liability company organized under the laws of the State, having its principal office at c/o The Pyramid Companies, 4 Clinton Square, Syracuse, New York 13202-1078 (the “**Expansion Owner**”); and **CAROUSEL CENTER COMPANY, L.P.**, having its principal office at 4 Clinton Square, Syracuse, New York 13202-1078 (“**CCC**” and together with SIDA, the City, PCO, the Parking Owner and the Expansion Owner, collectively the “**Parties**”).

RECITALS

All capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings assigned thereto in the Master Glossary dated as of December 31, 2005, as amended as of February 1, 2007 and as further amended as of January 27, 2012.

A. The Project:

1. At the request of PCO, SIDA 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*”). In conjunction with the undertaking of the Project, PCO and SIDA entered into an Amended and Restated Agreement, dated as of December 31, 2005 (the “*Agency Agreement*”), setting forth certain rights and obligations of the parties with respect to the Project.

2. Under the Agency Agreement PCO is required to pay SIDA’s legal fees incurred in connection with the Project.

3. In conjunction with the Project, SIDA, the City, CCC and Expansion Owner entered into a payment in lieu of taxes agreement (the “*PILOT Agreement*”) which was approved by the City through Ordinance No. 32 of 2002 (the “*PILOT Ordinance*”).

4. The PILOT Ordinance sets forth the schedule of payments applicable to the Project and each of the applicable parties (the “*PILOT Payments*”).

5. In connection with the Project, SIDA exercised its power of eminent domain to acquire title to various real property interests necessary to construct the Project under the Eminent Domain Procedure Law (“*EDPL*”). These interests include, but are not limited to, certain real property to be used to make infrastructure improvements in conjunction with the

Project which are known as the Right of Way Interests (the “**ROW Interests**”). One of the ROW Interests is a portion of the real property located at 401 West Bear Street, Syracuse, NY (SBL no. 107-11-03) acquired from JSF Services, LLC by Order of Condemnation, dated August 26, 2008 (“**JSF Parcel**”).

6. SIDA issued its PILOT Revenue Bonds (Carousel Center Project) (the “**Bonds**”) on February 27, 2007 (the “**Closing Date**”). Pursuant to the terms of the Agency Agreement, SIDA was entitled to a non-refundable \$60,000,000 administrative fee upon the issuance of the Bonds for its undertaking of, and participation in, the Project (the “**SIDA Fee**”). SIDA received \$11,000,000 of the SIDA Fee on the Closing Date with the balance paid in equal annual installments of \$3,800,000 on each anniversary of the Closing Date through and including 2018.

7. Pursuant to the terms of the Agency Agreement, PCO was required to commence the Second Phase and Third Phase of the Project (the “**Required Phases**”) each on or prior to certain specified dates as set forth therein (the “**Outside Commencement Date**”).

8. PCO, Expansion Owner, Parking Owner and SIDA entered into two (2) separate extension agreements, dated June 6, 2011 and December 6, 2011, the terms of which extended the Outside Commencement Date for each of the Required Phases in exchange for the tendering of non-refundable extension fees by PCO. The second and final extension agreement extended the Outside Commencement Date for the Required Phases to June 6, 2012. No further extension agreements were entered between PCO and SIDA.

9. On or about June 5, 2012, PCO declared the First Phase as the Final Phase (as that term is defined in the PILOT Ordinance) of the Project in accordance with the terms of the PILOT Ordinance.

10. At a special board meeting held on July 23, 2012, SIDA declared PCO in default under the Agency Agreement for failing to commence one of the Required Phases prior to the Outside Commencement Date and resolved to exercise certain remedies available under the Agency Agreement and the Parking ISA (as that term is defined herein); and to transfer certain property interests held by SIDA (the “*Resolution*”).

11. SIDA further resolved, as part of the Resolution, and in accordance with the Agency Agreement, to transfer title to the ROW Interests. Certain of the ROW Interests were transferred directly to, and accepted by, PCO. By letter dated August 16, 2012, SIDA offered the original owner of the JSF Parcel the right of first refusal to purchase the JSF Parcel (“*Right of First Refusal Offer*”).

12. PCO objected to the proffered transfer of title of the JSF Parcel to the original owner and the parties agreed, in conjunction with these underlying settlement negotiations, to delay any action on the proffered Right of First Refusal Offer. Title to the JSF Parcel remains with SIDA.

13. Upon the declaration by SIDA of a default under the Agency Agreement, the City of Syracuse, New York (the “*City*”), by Ordinances Nos. 347-2012 and 400-2012 (the “*Rescinding Ordinances*”), rescinded its prior Ordinances Nos. 62-1998 and 62-1997 (collectively the “*Road Ordinances*”) which provided for the possible closure of Hiawatha Blvd. and Solar Street, each in the City, upon the satisfaction of certain conditions precedent.

B. Parking Owner:

14. On the Closing Date, the Parking Owner assumed certain obligations under the Agency Agreement relating to the Public Parking Improvements pursuant to that certain partial

assignment and assumption agreement dated as of February 1, 2007 (the “*Parking Partial Assumption*”) by and between PCO, Parking Owner and SIDA, including but not limited to the obligation to pay SIDA’s legal fees in connection with the Parking Lands (as defined herein) or Parking Owner. The obligations under the Parking Partial Assumption are joint and several with PCO.

15. The Parking Owner and SIDA entered into that certain installment sale agreement dated as of February 1, 2007, as same may have been amended from time to time (the “*Parking ISA*”) governing certain property commonly known as the “*Parking Lands*”, as described therein.

16. Pursuant to that certain election notice effective February 1, 2007, the Parking Owner agreed to be bound by the terms of the PILOT Agreement, solely as such terms relate to the Parking Owner and the Parking Lands.

17. Section 19 of the PILOT Agreement prohibits the Parking Owner from challenging the tax assessment of the Parking Lands for purposes of reduction thereof during the applicable PILOT Land Term and/or PILOT Benefit Term (as those terms are defined in the PILOT Ordinance).

18. The Parking Owner asserted that the Parking Lands governed by the Parking ISA were part and parcel of the First Phase (as that term is defined in the Agency Agreement) of the Project. SIDA disagrees with Parking Owner’s assertion and contends that pursuant to the terms of the Agency Agreement, the PILOT Ordinance and the Parking ISA, the Parking Lands are within the PILOT Land Term and were, among other things, not subject to an assessment challenge by the Parking Owner.

19. Upon SIDA's declaration of default by PCO under the Agency Agreement, SIDA resolved, in accordance with the Parking ISA, to transfer title to the Parking Lands to the Parking Owner and terminate the Parking ISA. The Parking Owner, disputing the default declaration and SIDA's available remedies, refused to accept title to the Parking Lands.

20. In conjunction with the underlying settlement negotiations, SIDA resolved on January 24, 2013 to file administrative complaints under the Real Property Tax Law with the City's Board of Assessment Review (the "**BAR**") challenging the respective assessed values of the Parking Lands.

C. Expansion Owner:

21. On the Closing Date, the Expansion Owner assumed certain obligations under the Agency Agreement relating to the First Phase pursuant to that certain amended and restated partial assignment and assumption agreement dated as of February 1, 2007 (the "**Expansion Partial Assumption**") by and between PCO, Expansion Owner and SIDA, including but not limited to, the obligation to pay SIDA's legal fees in connection with the First Phase or the Expansion Owner. The obligations under the Expansion Partial Assumption are joint and several with PCO.

22. The Expansion Owner and SIDA entered into an installment sale agreement dated as of February 1, 2007, as same may be amended from time to time (the "**Expansion ISA**") governing the First Phase.

23. Pursuant to that certain election notice effective February 1, 2007, the Expansion Owner agreed to be bound by the terms of the PILOT Agreement, solely as such terms relate to the Expansion Owner and the First Phase.

24. On or about November 6, 2011, the Expansion Owner obtained its certificate of occupancy from the City with respect to the First Phase.

25. The PILOT Ordinance provides, in part, for an annual payment known as the Interim Annual Payment (the “*IAP*”) as part of the PILOT Payment calculation for each Constructed Phase which is not the Final Phase (as those terms are defined therein). The IAP is calculated pursuant to a formula based upon square footage of Leasable Area (as that term is defined in the PILOT Ordinance). For the First Phase, this calculation totals \$4,425,143.63.

26. On or about January 31, 2012, Expansion Owner tendered its first installment of the IAP in the amount of \$1,106,285.91. On or about April 30, 2012, Expansion Owner tendered its second IAP payment in the amount of \$1,106,285.91. For each such installment, \$334,069.00 was tendered to the County of Onondaga, New York as and for its statutory pro rata share of the PILOT Payment with the balance tendered to the City.

27. On or about June 5, 2012, PCO declared the First Phase as the Final Phase of the Project.

28. On or about July 31, 2012 and on or about October 31, 2012, Expansion Owner tendered its third and fourth IAP payment, respectively, each in the amount of \$1,106,285.91; each time reserving its right to contest the propriety of the demand for payment and to seek a refund of the third and fourth payment. For each such installment, \$334,069.00 was tendered to the County of Onondaga, New York as and for its statutory pro rata share of the PILOT Payment with the balance tendered to the City.

29. SIDA interprets the PILOT Ordinance to require the Expansion Owner to remit the IAP in full without reduction or setoff; while the Expansion Owner interprets the PILOT

Ordinance to remove the IAP from the formula for the calculation of PILOT Payments upon PCO's declaration of a Final Phase.

30. The PILOT Ordinance provides that for the Constructed Phase which is the Final Phase, an annual PILOT payment is due which is comprised, in part, of a Lakefront Improvement Fee (as defined therein) which is allocated in full to SIDA. The Lakefront Improvement Fee applicable to the First Phase is \$210,000 (the "*First Phase LIF*").

D. Miscellaneous:

31. On or about September 17, 2012, PCO (its successors and assigns), Expansion Owner, Parking Owner and CCC (collectively the "*Claim Parties*") filed a Verified Notice of Claim (the "*Claim*") against, among others, the City and SIDA, alleging, among other things, that the rescission of the Road Ordinances was arbitrary, capricious and without legal justification intended solely to frustrate the Project.

32. On or about October 11, 2012, the parties agreed to enter a tolling agreement with respect to the Claim tolling the parties' time to pursue any claims until November 5, 2012.

33. Thereafter on or about November 8, 2012, the parties entered into a second tolling agreement further tolling the parties' time to pursue any claims until November 16, 2012.

34. Thereafter on or about November 15, 2012, the parties entered into a third tolling agreement further tolling the parties' time to pursue any claims until December 6, 2012.

35. Thereafter on or about December 5, 2012, the parties entered into a fourth tolling agreement further tolling the parties' time to pursue any claims until January 6, 2013.

36. Thereafter on or about January 4, 2013, the parties entered into a fifth tolling agreement further tolling the parties' time to pursue any claims until February 6, 2013.

37. Thereafter on or about February 5, 2013, the parties entered into a sixth tolling agreement further tolling parties' time to pursue any claims until March 31, 2013.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and promises contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The recitals set forth above are incorporated into this Agreement and the Parties affirm and acknowledge same as if they were fully set forth herein below.

2. The Parties agree that SIDA has no further obligations under existing agreements to: (i) issue any additional bonds; or (ii) provide any additional Financial Assistance (as that term is defined in the NYS General Municipal Law) in accordance with the terms of the Agency Agreement with respect to any unconstructed Required Phase(s) of the Project; and specifically the Second Phase or the Third Phase (as those terms are defined in the Agency Agreement).

3. Contemporaneously with the execution of this Agreement, PCO (its successors and assigns), Expansion Owner, Parking Owner and CCC agree to withdraw the entire Claim with prejudice.

4. SIDA agrees to rescind its Resolution and further agrees not to further resolve, at any time, to find PCO, or its successors or assigns, in default under the Agency Agreement for failure to meet the Outside Commencement Date with respect to the Required Phases.

5. Contemporaneously with the execution of this Agreement, and in connection with the rescission of the Resolution, the Parking Owner, PCO and SIDA will execute and deliver a termination of the Parking Partial Assumption, substantially in the form of the termination

attached hereto at **Exhibit “A”**, thereby terminating any obligations and/or rights the Parking Owner may have by, through or under the Agency Agreement.

6. The Expansion Owner, the Parking Owner, PCO and CCC, and each of their affiliates, successors and assigns, hereby forever waives any claim or right to any refund or setoff of the SIDA Fee.

7. In conjunction with the complaints filed with the BAR, the parties have agreed that the 2013 City assessments of the respective parcels making up the Parking Lands will be fixed as set forth on **Exhibit “B”** attached hereto. In addition, for each tax year through and including the 2018/2019 Tax Year, the total assessment for all tax parcels comprising the Parking Lands shall not exceed the total amount set forth on Exhibit “B” attached hereto.

8. References to current tax parcel numbers shall be deemed to include any tax parcel numbers assigned to the same parcels, it being the intent of the parties that the future assessments provided for in this Settlement Agreement shall apply to the parcels now identified by the Tax Parcel Numbers referenced in Exhibit “B” notwithstanding any change to the Tax Parcel Numbers assigned to those parcels.

9. If, prior to January 1 of each of the years 2014, 2015, 2016, 2017 or 2018 there has been a physical change (improvement) to the property that increase the assessable value of the Parking Lands, or the Parking Lands have been altered by fire, demolition, destruction or similar catastrophe which decreases the value of the Parking Lands, then the assessed value set forth in Exhibit “B” shall be amended for the next tax year to such amount as the parties may agree to reflect such physical change (improvement) or such alteration, or, if the parties cannot agree, then the Parking Owner shall request a review of the assessed value of the Parking Lands

pursuant to Real Property Tax Law (“*RPTL*”) Article 5 before the BAR; and if the BAR denies such request, the Parking Owner shall pursue an action pursuant to RPTL Article 7. The parties agree that each such proceeding shall only seek, and any court or administrative body shall only have jurisdiction to determine the value of such physical change (improvement) or such alteration and, in any such proceeding, the proper total assessed value of the Parking Lands before such physical change (improvement) or such alteration shall be deemed to be the amount set forth on Exhibit “B” attached hereto.

10. Except as specifically set forth above, Parking Owner shall not challenge the assessments established for the 2014, 2015, 2016, 2017 and 2018 assessment rolls (by either administrative or judicial challenge) if the assessments are established in accordance with the provisions of this Settlement Agreement.

11. The Parties acknowledge that the Parking Lands are not part of the First Phase and, contemporaneously with the execution of this Agreement, the Parking Owner agrees to accept title to all of the Parking Lands governed by the Parking ISA from SIDA; and execute and deliver any and all necessary documents to effectuate the transfer. The Parking Owner will be obligated to pay all recording fees and legal fees associated with the transfer of the Parking Lands. The Parties further acknowledge that upon such transfer, the Parking Lands shall immediately revert to the tax rolls of the City and no longer be subject to the PILOT Agreement. The Parking Owner will be obligated to pay all taxes on the Parking Lands pursuant to their assessed value as set forth on Exhibit “B”. The Parking Owner, by executing this Agreement, acknowledges that it is responsible for the entire amount of the taxes due and owing, without setoff or diminution for any reason in accordance with Exhibit “B” hereto.

12. Contemporaneously with the execution of this Agreement, the Parking Owner and SIDA agree to terminate the Parking ISA (in accordance with the terms thereof) and execute a Termination of the Parking ISA, in substantially the form of termination attached hereto at **Exhibit “C”**.

13. SIDA agrees to provide a credit to the Expansion Owner for the third and fourth installments of the IAP in the total amount of \$2,212,571.82 (the “*Credit*”).

14. In exchange for the Credit, Expansion Owner agrees to accept an offset against the First Phase LIF , due and allocated to SIDA under the PILOT Ordinance, over the next 11 years on an annual basis in the amounts and on the dates set forth on **Exhibit “D”** attached hereto. By executing this Agreement, both the Expansion Owner and PCO agree not to claim or demand the return of the Credit at any time provided that same shall be offset in the amounts and at the times set forth in Exhibit “D”.

15. SIDA has determined that there has not been an abandonment of that portion of the Project for which the JSF Parcel was acquired and will transfer by quit claim deed title to the JSF Parcel to PCO.

16. Contemporaneously with the execution of this Agreement, PCO, the Expansion Owner and the Parking Owner agree to remit payment in full of all legal fees incurred by SIDA in conjunction with the Project to Hiscock & Barelay, LLP as counsel to SIDA as required by the terms of the Agency Agreement and applicable installment sale agreement(s).

17. Notwithstanding anything herein to the contrary, in the event that PCO, Expansion Owner or Parking Owner should default in their performance or observance any of the provisions hereof, SIDA shall be entitled to avail itself of any of its rights and remedies under

the Agency Agreement, including as assumed pursuant to those certain Partial Assignment and Assumption Agreements as set forth hereinabove, the Parking ISA and/or the Expansion ISA.

18. In the event that SIDA or the City should default in any of the provisions hereof, PCO, Expansion Owner or Parking Owner shall be entitled to avail itself of any of their rights and remedies under the Agency Agreement and the applicable installment sale agreement.

19. Except as expressly provided for herein, the Parties agree that this Agreement does not amend, alter, modify or change, explicitly or implicitly, the rights and/or obligations as and between SIDA and the Expansion Owner, SIDA and PCO or SIDA and CCC or any terms of the Agency Agreement or any other documents executed by PCO, the Expansion Owner and/or CCC with respect to the Project or the existing Carousel Center.

20. Upon execution of this Agreement, and based upon the consideration recited above, the Claim Parties, and each of their past, present and future affiliates, members, assigns, officers, directors, employees, agents, representatives and attorneys, and all persons acting by, through, under or in concert with it or any of them, does hereby irrevocably and unconditionally release, waive and forever discharge all named defendants in the Claim, including but not limited to the City and SIDA, and their respective members, if any, successors and assigns (collectively the "***Claim Defendants***"), from any and all actions, causes of action, suits, claims, debts, obligations, demands, liabilities, rights, damages, losses, costs, expenses (including, but not limited to, attorneys fees and costs actually incurred), which they now have, own or hold or claim to have, own or hold, or at any time heretofore had, owned or held, or claimed to have had, owned or held, or may hereinafter have, own or hold, or claim to have, own or hold against the Claim Defendants or their successors and assigns arising out of, based upon, or relating to claims

that were asserted in the Claim or allegedly arose from, were based upon, or were related to the Rescinding Ordinances or the Road Ordinances.

21. The Parties acknowledge and agree that the indemnification obligations of PCO as contained in the Agency Agreement, as assumed by the Expansion Owner pursuant to the Parking Partial Assumption, and the September 18, 1992 Agreement between SIDA and the Pyramid Companies, as amended, ("**1992 Preferred Developer Agreement**") survive and are incorporated in this Agreement as if fully set forth herein and apply to any claims imposed upon or incurred by or asserted against SIDA by reason of or arising from this Agreement. PCO further agrees to indemnify, defend and hold harmless the City, and each of its past, present and future affiliates, members, assigns, officers, directors, employees, agents, representatives and attorneys from and against any claims imposed upon or incurred by or asserted against the City by reason of or arising from this Agreement.

22. Each of the parties to this Agreement warrants and represents to the others that it has the power to enter into this Agreement and that the person executing this Agreement on its behalf has been authorized to do so by any and all appropriate corporate bodies. Each of the undersigned represents and warrants that he or she has the authority and capacity to act on behalf of the entity on behalf of whom he or she signed this Agreement and bind it to the terms and conditions of this Agreement.

23. In entering into this Agreement, each of the Parties represents that it has relied exclusively on its own judgment and analysis of the facts, and has not relied on any representations or conditions made by any other party (other than as expressly set forth herein). The Parties further represent and acknowledge that they fully understand their right to discuss

any and all aspects of this Agreement with legal counsel of their own choosing; and to the extent, if any, that they desire, they have availed themselves of this right; that they have carefully read and fully understand all of the provisions of this Agreement; that they voluntarily enter into this Agreement; and that they have the capacity to enter into this Agreement. By the signing below, the Parties represent that they have read the foregoing Agreement and fully understand and agree to each and all of the terms and conditions set forth herein.

24. Nothing in this Agreement shall be construed to have any effect whatsoever on the indemnification provision contained in the Agency Agreement, the Parking ISA or the Expansion ISA.

25. Each provision herein shall be severable and, if any provision is held invalid or unenforceable or breached by either party, the remaining provisions herein shall nonetheless be enforceable to the fullest extent permitted by law.

26. This Agreement represents the entire understanding and agreement between the parties hereto and supersedes any prior to contemporaneous written or oral agreements, representations or warranties with respect to the matters addressed herein.

27. This Agreement may not be modified or amended, nor may any right or obligation set forth herein be waived, except in writing signed by the parties with at least the same formalities as are observed herein. A waiver as to any particular term shall not operate as a waiver as to any other terms. The language of this Agreement shall be construed as a whole according to its fair meaning, and not strictly for or against any of the parties.

28. This Agreement shall be governed by and construed in accordance with the laws of the State of New York. None of the terms or conditions of this Agreement may be changed, modified, waived or cancelled, except by a writing signed by all Parties hereto.

29. This Agreement may be executed and delivered by facsimile or other electronic means, and in any number of counterparts, each of which shall be deemed to be an original and all of which shall together constitute one instrument.

[Signatures appear on following pages.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

By: 
Name: _____
Title: William M. Ryan
Chairman

PYRAMID COMPANY OF ONONDAGA,
a New York general partnership

By: _____
Name: Bruce A. Kenan
Title: Partner

DESTINY USA HOLDINGS, LLC, a New York limited liability company

By: **CAROUSEL DESTINY HOLDINGS LLC,** a Delaware limited liability company, its managing member

By: _____
Bruce A. Kenan
Managing Member

DESTINY USA LAND COMPANY, LLC, a New York limited liability company

By: **PYRAMID COMPANY OF ONONDAGA,** a New York general partnership, its member

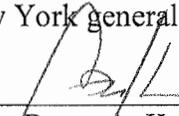
By: _____
Bruce A. Kenan
Partner

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

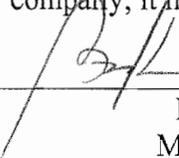
By: _____
Name: William M. Ryan
Title: Chairman

PYRAMID COMPANY OF ONONDAGA,
a New York general partnership

By:  _____
Name: Bruce A. Kenan
Title: Partner

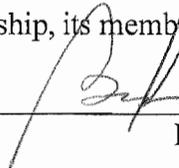
DESTINY USA HOLDINGS, LLC, a New York limited liability company

By: **CAROUSEL DESTINY HOLDINGS LLC,** a Delaware limited liability company, its managing member

By:  _____
Bruce A. Kenan
Managing Member

DESTINY USA LAND COMPANY, LLC, a New York limited liability company

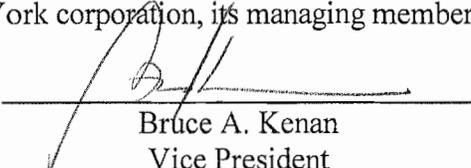
By: **PYRAMID COMPANY OF ONONDAGA,** a New York general partnership, its member

By:  _____
Bruce A. Kenan
Partner

CAROUSEL CENTER COMPANY L.P., a New York limited partnership

By: **CAROUSEL GENERAL COMPANY LLC**, a New York limited liability company, general partner

By: **CAROUSEL CENTER HOLDINGS INC.**, a New York corporation, its managing member

By: 
Bruce A. Kenan
Vice President

Attest

CITY OF SYRACUSE

By: _____
John P. Copanas, City Clerk

By: _____
Stephanie A. Miner, Mayor

CAROUSEL CENTER COMPANY L.P., a New York limited partnership

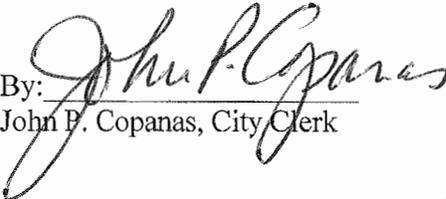
By: **CAROUSEL GENERAL COMPANY LLC**, a New York limited liability company, general partner

By: **CAROUSEL CENTER HOLDINGS INC.**, a New York corporation, its managing member

By: _____
Bruce A. Kenan
Vice President

Attest

CITY OF SYRACUSE

By: 
John P. Copanas, City Clerk

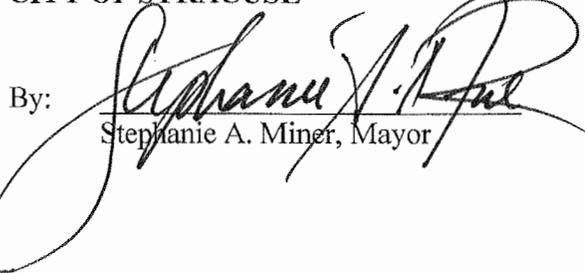
By: 
Stephanie A. Miner, Mayor

EXHIBIT "A"

**FORM OF TERMINATION OF PARTIAL ASSIGNMENT
AND ASSUMPTION AGREEMENT**

THIS TERMINATION OF THE PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT (this "**Termination**") dated as of April 1, 2013, is made and entered into by and among **PYRAMID COMPANY OF ONONDAGA**, a general partnership organized under the laws of the State of New York having its principal office at 4 Clinton Square, Syracuse, New York 13202 ("**Assignor**"), **DESTINY USA LAND COMPANY, LLC**, a New York limited liability company, having its principal office at 4 Clinton Square, Syracuse, New York 13202 ("**Assignee**"), and **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation duly organized and existing under the laws of the State of New York, having its offices at 333 West Washington Street, Suite 130, Syracuse, New York 13202 (the "**Agency**").

Reference is made to that certain Master Glossary of Terms, dated as of December 31, 2005, as amended as of February 1, 2007, as further amended on January 27, 2012 and as the same may hereafter be amended from time to time in accordance with the provisions thereof (the "**Master Glossary**"). All capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Master Glossary.

WITNESSETH :

WHEREAS, the Assignor, the Assignee and the Agency entered into a Partial Assignment and Assumption Agreement dated as of February 1, 2007 (the "**Partial Assignment and Assumption Agreement**") pursuant to which, among other things, the Assignor assigned certain of its rights and obligations under that certain Amended and Restated Agreement dated as of December 31, 2005 between the Assignor and the Agency (the "**SIDA Agreement**") with respect to the Public Parking Improvements to be constructed or installed on the Parking Parcel (the Parking Public Improvements to be constructed or installed on the Parking Parcel and all work to be performed in connection therewith hereinafter collectively referred to as the "**Current Phase**") and Assignee agreed to accept the assignment thereof and assume such obligations thereunder in respect of the Current Phase; and

WHEREAS, the Assignor, Assignee and the Agency now desire to evidence the termination of the Partial Assignment and Assumption Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. It is hereby agreed that the Partial Assignment and Assumption Agreement has terminated as of the dated date hereof;

2. Nothing in this Termination shall release Assignor from Assignor's obligations under the SIDA Agreement.

3. This Termination may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

4. **THIS TERMINATION SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THAT WOULD REQUIRE APPLICATION OF ANOTHER LAW.**

IN WITNESS WHEREOF, the Assignor, Assignee and the Agency have signed this Termination of Partial Assignment and Assumption Agreement and caused same to be dated as of the 1st day of April, 2013.

PYRAMID COMPANY OF ONONDAGA, as Assignor

By: _____
Bruce A. Kenan
Partner

DESTINY USA LAND COMPANY, LLC, a New York limited liability company, as Assignee

By: **PYRAMID COMPANY OF ONONDAGA**, a New York general partnership, its member

By: _____
Bruce A. Kenan
Partner

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

By: _____
William M. Ryan
Chairman

EXHIBIT "B"

| Tax Map No. & Address | 2013 Tentative Assessed Value | 2013 Final Assessed Value |
|--|--|--|
| 116-01.03.0 401 Hiawatha Blvd W. & Solar St. | \$1,050,000 | \$1,501,600 |
| 116-01-04.0 561 Solar St to Barge Canal | \$990,000 | \$804,700 |
| 116-01-05.0 551 Solar St to Barge Canal | \$630,000 | \$769,800 |
| 116-01-06.0 541 Solar St to Barge Canal | \$270,000 | \$508,400 |
| 116-01-07.0 531 Solar St to Barge Canal | \$270,000 | \$508,500 |
| 116-01-08.0 300 Bear St W. & Solar St. | \$145,000 | \$691,800 |
| 116-02-01.0 311 Hiawatha Blvd W & Solar St | \$2,140,000 | \$2,878,100 |

| Tax Map No. & Address | 2013 Tentative Assessed Value | 2013 Final Assessed Value |
|---|--|--|
| 116-02-03.0 108 Bear St W | \$112,500 | \$134,000 |
| 116-02-04.1 200 Bear St W | \$57,500 | \$450,500 |
| 116-02-04.2 198 Bear St W | \$65 | \$200.00 |
| 116-02-05.0 250 Bear St. W & Solar St | \$45,000 | \$312,500 |
| 116-02-06.0 502 Solar St | \$67,500 | \$312,500 |
| 116-02-07.0 540 Solar St | \$410,000 | \$752,400 |
| 116-02-08.0 550 Solar St | \$840,000 | \$1,188,000 |
| 114-02-10.1 410 Hiawatha Blvd W | \$337,500 | \$1,987,000 |
| TOTAL: | | \$12,800,000 |

EXHIBIT "C"

FORM OF TERMINATION OF PARKING ISA

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

AND

DESTINY USA LAND COMPANY, LLC

**TERMINATION OF
INSTALLMENT SALE AGREEMENT**

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Susan R. Katzoff, Esq.
Hiscock & Barclay, LLP
One Park Place
300 South State Street
Syracuse, New York 13202

**TERMINATION OF
INSTALLMENT SALE AGREEMENT**

WHEREAS, CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY a public benefit corporation organized under the laws of the State of New York (the “*State*”), having an address at 333 West Washington Street, Suite 130, Syracuse, New York 13202 (the “*Agency*”) and DESTINY USA LAND COMPANY, LLC, a New York limited liability company, having its principal office at 4 Clinton Square, Syracuse, New York 13202 (the “*Parking Owner*”) entered into an installment sale agreement dated as of February 1, 2007 (the “*Original Installment Sale Agreement*”) pursuant to which, among other things, the Agency agreed to sell the Project Facility (as defined in the Installment Sale Agreement) to the Parking Owner; and

WHEREAS, a Memorandum of the Original Installment Sale Agreement was recorded in the Office of the Onondaga County Clerk on March 23, 2007 in Book 4987 at Page 186; and

WHEREAS, the Agency and the Parking Owner entered into the First Amendment to Parking Installment Sale Agreement dated as of December 1, 2011 (the “*First Amendment*”, and together with the Original Installment Sale Agreement collectively, the “*Installment Sale Agreement*”); and

WHEREAS, a Memorandum of the First Amendment was recorded in the Office of the Onondaga County Clerk on February 9, 2012 in Book 5189 at Page 650; and

WHEREAS, such Installment Sale Agreement covers the real property, including any buildings, structures or improvements now or hereafter affixed or attached thereto, as more particularly described in **Schedule “A”** attached hereto and made a part hereof.

WHEREAS, pursuant to the Installment Sale Agreement, and notwithstanding the survival of certain obligations of the Parking Owner as described therein, the Agency has the right to terminate the Installment Sale Agreement and prepare, execute and deliver the documents necessary to evidence the termination and release of all liens and interests granted to the Agency thereunder; and

WHEREAS, the Agency has elected to terminate the Installment Sale Agreement;

NOW, THEREFORE, it is hereby agreed that the Installment Sale Agreement has been terminated as of the dated date hereof; provided however, that, as provided in the Installment Sale Agreement, certain obligations of the Parking Owner shall survive the termination of the Installment Sale Agreement and the execution of this termination of the Installment Sale Agreement by the Agency is not intended, and shall not be construed, as a waiver or alteration by the Agency or the Parking Owner of such provisions of the Installment Sale Agreement.

IN WITNESS WHEREOF, the Parking Owner and the Agency have signed this Termination of Installment Sale Agreement and caused it to be dated as of the 1st day of April, 2013.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
William M. Ryan, Chairman

DESTINY USA LAND COMPANY, LLC, a New York
limited liability company

By: **PYRAMID COMPANY OF ONONDAGA**, a
New York general partnership, its member

By: _____
Bruce A. Kenan
Partner

EXHIBIT "D"

Schedule of IAP Offset Credit Against First Phase Lakefront Improvement Fee

| Date | Credit Due | Lakefront Improvement Fee Due | Credit | Amount Due SIDA |
|--------------|-------------------|--------------------------------------|-----------------------|------------------------|
| 2/27/2014 | \$2,212,571.82 | \$210,000.00 | \$ 210,000 | \$0.00 |
| 2/27/2015 | \$2,002,571.82 | \$210,000.00 | \$ 210,000 | \$0.00 |
| 2/27/2016 | \$1,792,571.82 | \$210,000.00 | \$ 210,000 | \$0.00 |
| 2/27/2017 | \$1,582,571.82 | \$210,000.00 | \$ 210,000 | \$0.00 |
| 2/27/2018 | \$1,372,571.82 | \$210,000.00 | \$ 210,000 | \$0.00 |
| 2/27/2019 | \$1,162,571.82 | \$210,000.00 | \$ 210,000 | \$0.00 |
| 2/27/2020 | \$952,571.82 | \$210,000.00 | \$ 210,000 | \$0.00 |
| 2/27/2021 | \$742,571.82 | \$210,000.00 | \$ 210,000 | \$0.00 |
| 2/27/2022 | \$532,571.82 | \$210,000.00 | \$ 210,000 | \$0.00 |
| 2/27/2023 | \$322,571.82 | \$210,000.00 | \$ 210,000 | \$0.00 |
| 2/27/2024 | \$112,571.82 | \$210,000.00 | \$ 112,571.82 | \$97,428.18 |
| Total | \$0.00 | | \$2,212,571.82 | |

Lakefront Improvement Fee is Due in Full to SIDA Commencing in February 2025.