

## APPROVING RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on January 24, 2017 at 8:30 a.m. in the Common Council's Chambers, 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., Steven Thompson, Donald Schoenwald, Esq., Kenneth Kinsey

The following persons were **ALSO PRESENT:** Staff Present: Honora Spillane, Judith DeLaney, Meghan Ryan, Esq., Susan Katzoff, Esq., John Vavonese, Debra Ramsey-Burns; Others: Timothy Lynn, Esq., Barry Lentz, Aggie Lane, James Trasher, Paul Curtin, Esq., Carol Zenzel, Esq., Peter King, Lisa Sparks, Neil Patel; Media Present: Rick Moriarty.

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

### RESOLUTION APPROVING THE TRANSFER OF REAL PROPERTY

**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 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 acquire, lease and sell real property and grant financial assistance in connection with one or more "projects" (as defined in the Act); 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 (the "**Project**"). In conjunction with the undertaking of the Project, the parking fields located between Hiawatha Boulevard and Bear Street and on either side of Solar Street, including, but not limited to, 502 Solar Street (bearing tax ID # 116-02-06 (the "**Solar Street Parcel**") (collectively the "**Parking Parcels**") were the subject of eminent domain proceedings

("EDPL") brought by the Agency pursuant to one or more agency agreements entered into between PCO and the Agency (collectively, as amended, the "*Agency Agreement*"); and

**WHEREAS**, in accordance with the Agency Agreement, PCO was required to pay all costs associated with the EDPL action including but not limited to the just compensation awards (deemed to represent fair market value) implemented by the Court in those proceedings with respect to each of the Parking Parcels; and

**WHEREAS**, PCO did in fact pay for the costs related to the EDPL action for the Parking Parcels and the just compensation awards for each of the Parking Parcels including the Solar Street Parcel; and

**WHEREAS**, as part of the overall Project, the Agency and PCO, or one of its affiliates, entered into one or more installment sale agreements, including an installment sale agreement covering the Parking Parcels (the "*Parking ISA*"); and

**WHEREAS**, the Solar Street Parcel was not included in the original Parking ISA as title to that parcel had not yet vested with SIDA; and

**WHEREAS**, following the execution and delivery of the Parking ISA, the Agency obtained title to the Solar Street Parcel and an amendment of the Parking ISA was undertaken. The tax parcel ID number for the Solar Street Parcel was listed on an exhibit of properties attached to, and intended to be governed by, the amended Parking ISA; and

**WHEREAS**, the legal description associated with the Solar Street Parcel was inadvertently omitted from the legal descriptions attached to the amended Parking ISA; and

**WHEREAS**, in 2012, the Agency declared a default under the parties' Agency Agreement based upon PCO's failure to commence additional required phases of the Project. At that time, SIDA also resolved to terminate the Parking ISA and transfer ownership of the Parking Parcels back to the applicable PCO entity; and

**WHEREAS**, in April 2013, following the declaration of default, the Agency and PCO entered into a settlement agreement (the "*Settlement Agreement*"), which, among other things, fixed the assessed value of each of the Parking Parcels, including the Solar Street Parcel, for a period of time through and including 2018; and

**WHEREAS**, following the execution of the Settlement Agreement, the Agency terminated the Parking ISA and transferred title to the Parking Parcels to the applicable PCO entity. It was the intent of the parties that the Solar Street Parcel be included in that transfer; and

**WHEREAS**, PCO recently learned that the Solar Street Parcel was not transferred in 2013 as intended by the parties and remains in the name of the Agency; and

**WHEREAS**, the oversight was the result of a scrivener's error in as much as the tax parcel ID number for the Solar Street Parcel was included in the list of parcels to be governed by

the amended Parking ISA and on a list to be transferred from the Agency to PCO; but, because the legal description used for the transfer was taken from the amended Parking ISA (which inadvertently omitted the legal description of the Solar Street Parcel) the Solar Street Parcel was inadvertently omitted from the parcels transferred; and

**WHEREAS**, PCO has requested the Agency now transfer title to the Solar Street Parcel as intended; and

**WHEREAS**, PCO has agreed to remit to SIDA an amount equivalent to real property taxes based upon the assessed value for the Solar Street Parcel under the Settlement Agreement from the date of the original transfer of the Parking Parcels to PCO (or an affiliated entity) back in April 2013 to date based upon then applicable tax rate for each year (the "**Tax Payment**"); and

**WHEREAS**, SIDA will treat the Tax Payment as if it were a payment in lieu of taxes and distribute same amongst the taxing jurisdictions in the same proportion as real property taxes.

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

**Section 1.** Based upon the foregoing, the Agency hereby resolves to:

(A) in accordance with the terms of this Resolution, transfer the Solar Street Parcel to PCO or an affiliated entity;

(B) collect from PCO, as a condition to the transfer of the Solar Street Parcel, the Tax Payment;

(C) remit the Tax Payment to the City of Syracuse and County of Onondaga, New York, in the same proportion as they would otherwise share in real property taxes; and

(D) As a further condition of the transfer, PCO shall agree to pay all costs associated with the Transfer Documents (as defined below) and all other costs incurred by SIDA in connection with the transfer, including but not limited to legal fees.

**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 immediately effectuate the transfer of the Solar Street Parcel and the intent of this Resolution including, but not limited to, a deed, and any such additional certificates, instruments, documents, forms or affidavits (collectively, the "**Transfer Documents**"), to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or amendments to the Transfer 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.

**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 Transfer 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, as necessary, PCO and others to prepare and file all Transfer 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.

**Section 6.** 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 7.** The Secretary and/or Executive Director of the Agency is hereby authorized and may distribute copies of this Resolution and do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

**Section 8.** A copy of this Resolution, together with any 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 M. Ryan	X	
M. Catherine Richardson	X	
Steven Thompson	X	
Donald Schoenwald	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK )

COUNTY OF ONONDAGA ) ss.:

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, 2017, 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 28<sup>th</sup> day of February, 2017.

**CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**

By:   
Steven P. Thompson, Secretary

(S E A L)