

RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on June 18, 2019 at 8:00 a.m. at the Agency's offices in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

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

PRESENT: Steven Thompson, Katherine Murphy, Kenneth Kinsey, Rickey T. Brown

EXCUSED: Michael Frame

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff: Judith Delaney, Susan R. Katzoff, Esq., Debra Ramsey-Burns, John Vavonese; Others: James Trasher, Mitch Lattimer, Lauryn LaBorde, Aggie Lane, Stephanie Pasquale, Joseph Marcus, Eric Ennis; Media: Rick Moriarty, Channel 9

The following Resolution was offered by Rickey T. Brown and seconded by Kenneth Kinsey:

RESOLUTION AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION WITH A MODIFICATION AND EXTENSION OF CERTAIN LOANS AT THE REQUEST OF CAROUSEL CENTER COMPANY, L.P. AND DESTINY USA HOLDINGS, LLC

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, at the request of the Pyramid Company of Onondaga, Carousel Center Company, L.P., Destiny USA Holdings, LLC and certain affiliated companies (collectively, "**PCO**"), the Agency undertook a project (the "**Project**") consisting, in part, of the expansion of the Carousel Center mall, in one or more phases including, but not limited to the construction

and completion of not less than 800,000 square feet of leaseable area and the acquisition, construction, improvement, equipping and completion of certain public improvements (the "**First Phase**"); and

WHEREAS, in conjunction with the Project, JPMorgan Chase Bank, National Association (the "**CMBS Creditor**") made loans to refinance existing loans on the Project to each the Carousel Center Company, L.P. (the "**Carousel Note**") and to Destiny USA Holdings, LLC (the "**Destiny Note**"), each dated as of June 6, 2014; and

WHEREAS, the Carousel Note was secured by a mortgage, dated as of even date of the Carousel Note, on the Carousel Center mall by and among the Carousel Center Company L.P, the CMBS Creditor and the Agency (the "**Carousel Mortgage**"); and

WHEREAS, the Destiny Note was secured by a mortgage, dated as of even date of the Destiny Note, on the First Phase by and among Destiny USA Holdings, LLC, the CMBS Creditor and the Agency (the "**Destiny Mortgage**"); and

WHEREAS, the Carousel Note and the Destiny Note were each scheduled to mature in June 2019; and

WHEREAS, Carousel Center Company L.P. and Destiny USA Holdings, LLC have each negotiated an extension of their respective notes with Wilmington Trust, National Association, as Trustee for the Benefit of the Holders of JP Morgan Chase Commercial Mortgage Securities Trust 2014-DSTY, Commercial Mortgage Pass-Through Certificates, Series 2014-DSTY, successor in interest to the CMBS Creditor, (the "**Modifications**"); and

WHEREAS, Carousel Center Company L.P. and Destiny USA Holdings, LLC have each requested the Agency participate in the Modifications by each respectively executing a certification, substantially similar to the forms executed by the Agency at the time of the 2014 Carousel Mortgage and Destiny Mortgage, copies of which are attached hereto at Exhibit "A" (collectively the "**Certifications**"); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as "**SEQRA**"), the Agency is required to make a determination whether the "action" (as said quoted term is defined in SEQRA) to be taken by the Agency may have a "significant impact on the environment" (as said quoted term is utilized in SEQRA); and

WHEREAS, pursuant to SEQRA, the Agency has determined that the execution and delivery of the Certifications constitutes a Type II action, and therefore no further environmental review is required;

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

Section 1. the action taken hereunder in conjunction with the execution and delivery of the Certifications constitutes a Type II action, and therefore no further environmental review is required.

Section 2. Based upon the representations made by Carousel Center Company L.P. and Destiny USA Holdings, LLC to the Agency, the Agency hereby makes the following findings and determinations:

(a) The Agency will execute and deliver the Certifications to effectuate the Modifications as outlined herein, with any changes reviewed by counsel to the Agency and approved by the Chairman and/or Vice Chairman, and all other documents, which upon the advice of counsel to the Agency are required in conjunction with the anticipated Modifications and Certifications and in a form acceptable to counsel and the (Vice) Chairman (collectively, the "**Modification Documents**"); and

(b) The Chairman, Vice Chairman and/or Executive Director of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Modification Documents subject to: (i) the review and approval of Agency's counsel; and (ii) compliance with the terms of this Resolution. The execution thereof by the Chairman, Vice Chairman or Executive Director shall constitute conclusive evidence of such approval; and

(c) The obligation of the Agency to consummate any transaction contemplated herein or hereby is subject to and conditioned upon the delivery by Carousel Center Company L.P. and Destiny USA Holdings, LLC of any other documents required by the Agency or its counsel as they deem necessary in conjunction with the Modifications and the Certifications and the review and approval of same by counsel and the (Vice) Chairman; and

(d) The execution and delivery of the Modification Documents are further conditioned upon remittance by the PCO, or one of their affiliated companies, of all outstanding legal fees to Bousquet Holstein PLLC in conjunction with the Project and the Modification Documents, and upon remittance to the Agency of any associated administrative fee, if any, due in conjunction with the Project, the Modifications and/or the Modification Documents contemplated hereby; and

(e) Should the Agency's participation in the Modification or any of the Modification Documents be challenged by any party, in the courts or otherwise, PCO 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 or the Modification Documents, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the PCO hereunder or otherwise;

(f) Bousquet Holstein PLLC is Agency counsel.

Section 3. The Secretary of the Agency is hereby authorized to distribute copies of this Resolution to Carousel Center Company L.P. and Destiny USA Holdings, LLC and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 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.

Section 5. 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>
Steven Thompson	X	
Kathleen Murphy	X	
Kenneth Kinsey	X	
Rickey T. Brown	X	

The foregoing Resolution was thereupon declared duly adopted.

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

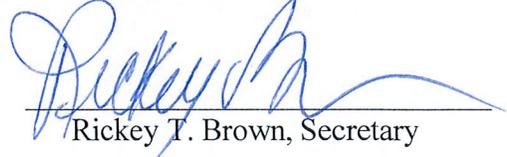
I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on June 18, 2019, with the original thereof on file 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 16th day of July, 2019.

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

By: 

Rickey T. Brown, Secretary

(S E A L)

EXHIBIT "A"
2014 CERTIFICATIONS

CERTIFICATION

THIS CERTIFICATION, effective as of June 6, 2014 (this "Certification"), by **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate politic and a public benefit corporation organized and existing under the laws of the State of New York (together with any subrogee of its rights or interests, "SIDA"), in favor of **JPMORGAN CHASE BANK, NATIONAL ASSOCIATION**, a banking association chartered under the laws of the United States of America, in its capacity as the lender under the CMBS Loan (together with its successors, transferees and assigns, the "CMBS Senior Creditor"), and **JPMORGAN CHASE BANK, NATIONAL ASSOCIATION**, a banking association chartered under the laws of the United States of America, in its capacity as the lender under the Mezzanine Loan (together with its successors, transferees and assigns, the "CMBS Mezzanine Creditor" and the CMBS Senior Creditor and the CMBS Mezzanine Creditor being herein referred to collectively as the "CMBS Creditors").

RECITALS

WHEREAS, SIDA, Manufacturers and Traders Trust Company, as PILOT Trustee ("PILOT Trustee") and Manufacturers and Traders Trust Company, as Bond Trustee ("Bond Trustee"), and together with PILOT Trustee and SIDA, the "Secured Parties") and the CMBS Creditors are entering into that certain Intercreditor Agreement, dated as of the date hereof, with respect to the Existing Carousel Center (the "Carousel Intercreditor Agreement");

WHEREAS, the Carousel Intercreditor Agreement, among other things, provides for the relative priority of the respective liens and rights of the Secured Parties under the Existing Carousel PILOT Documents, as defined therein, and the CMBS Creditors under the CMBS Loan Documents and the Mezzanine Loan Documents, as defined therein, on the terms and conditions set forth in the Carousel Intercreditor Agreement, and evidences certain agreements with respect to the relationship between (a) the Secured Parties and the Existing Carousel PILOT Documents, the Other Carousel Documents, the Assigned SIDA Agreement Provisions and the Bond Documents, on the one hand, and (b) the CMBS Senior Creditor and the CMBS Loan Documents and the CMBS Mezzanine Creditor and the Mezzanine Loan Documents, on the other hand; and

WHEREAS, as a condition to the CMBS Creditors making the CMBS Loan and the Mezzanine Loan, as defined in the Carousel Intercreditor Agreement, the CMBS Creditors have requested that SIDA certify as to certain items relative to the Existing Carousel PILOT Documents, the Other Carousel Documents, the Assigned SIDA Agreement Provisions and the Bond Documents which SIDA has agreed to do pursuant to the terms and conditions hereof. PILOT Trustee and Bond Trustee are delivering a separate certification.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SIDA hereby agrees in favor of the CMBS Creditors as follows:

1. Definitions: Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Carousel Intercreditor Agreement and if not defined in the Carousel Intercreditor Agreement, as defined in the Master Glossary (as defined in the Carousel Intercreditor Agreement).

2. Certification: SIDA hereby certifies to each of the CMBS Creditors with respect to the Existing Carousel PILOT Documents, the Other Carousel Documents, the Assigned SIDA Agreement Provisions and the Bond Documents that:

(i) the amounts listed on the schedule attached to the certificate of the Trustee dated as of the date hereof represent all of the PILOT Payments due under the PILOT Agreement during the PILOT Benefit Term and, based upon the certificate of the Trustee dated as of the date hereof, Carousel Owner has met all of its regularly scheduled monetary obligations;

(ii) to SIDA's knowledge, Carousel Owner has met all of its other monetary obligations, under the Existing Carousel PILOT Documents, the Other Carousel Documents, the Assigned SIDA Agreement Provisions and the Bond Documents that are, under the terms thereof, to be performed by Carousel Owner through the date hereof;

(iii) to SIDA's knowledge, Carousel Owner has performed, in all material respects, all of its non-monetary obligations under the Existing Carousel PILOT Documents, the Other Carousel Documents, the Assigned SIDA Agreement Provisions and the Bond Documents that are to be performed through the date hereof and, to SIDA's knowledge, no default or event has occurred or condition exists which, with the giving of notice, the passage of time, or both, would constitute a default of Carousel Owner under the Existing Carousel PILOT Documents, the Other Carousel Documents, the Assigned SIDA Agreement Provisions or the Bond Documents;

(iv) the Existing Carousel PILOT Documents, the Other Carousel Documents, the Assigned SIDA Agreement Provisions and the Bond Documents (other than the Parking Installment Sale Agreement, which has been terminated) are in full force and effect and, except as set forth on Schedule A annexed hereto, have not been modified or amended and represent the entire understanding of the parties thereto with respect to the subject matter thereof;

(v) to SIDA's knowledge, Carousel Owner has performed all of its obligations under the Existing Carousel PILOT Documents, the Other Carousel Documents, the Assigned SIDA Agreement Provisions and the Bond Documents with respect to the construction of the Existing Carousel Center and, to SIDA's knowledge, no further construction by Carousel Owner in connection with the Existing Carousel Center or any related Public Improvements is required thereunder other than the obligation to cooperate with the Expansion Owner to complete any remaining construction of the reconfiguration of Carousel Center necessary in connection with the First Phase;

(vi) SIDA has not made any claim against Carousel Owner for any indemnification obligations under any of the Existing Carousel PILOT Documents, the Other Carousel Documents, the Assigned SIDA Agreement Provisions or the Bond Documents, and to SIDA's knowledge, no event or circumstance exists that is reasonably expected to result in an indemnification obligation of Carousel Owner;

(vii) the PILOT payments with respect to the Existing Carousel Center are the amounts set forth on Schedule A to the Existing Carousel Center Election Notice and under no circumstances are such amounts subject to any increase but such amounts are subject to acceleration pursuant to Section 30 of the PILOT Agreement. The fact that the First Phase became the Final Phase, by virtue of Pyramid Company of Onondaga's giving notice of same or otherwise, did not and shall not give rise to any obligation of Carousel Owner to make any payment nor otherwise Affect Carousel; and

(viii) the individual signatory, in the ordinary course of operations of SIDA, would generally have knowledge of the existence or absence of facts relevant hereto.

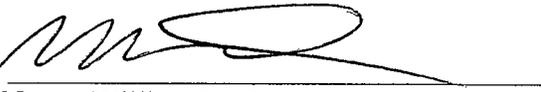
Any certification with respect to the existence or absence of facts based on knowledge of SIDA is intended to signify that no information has come to the actual attention of the individual signatory hereto which has given him actual knowledge of the existence or absence of such facts. Such individual signatory has not undertaken any independent investigation to determine the existence or absence of such facts, and no inference as to his knowledge of the existence or absence of such facts should be drawn therefrom.

The certifications provided herein are rendered as of the date hereof. SIDA has no undertaking to supplement these certifications or to advise the CMBS Creditors of any developments which may occur after the date hereof, whether or not coming to its attention and whether or not the same would or might (if now existing and known to the signatory) cause any changes or modifications to any certification provided hereunder by reason hereof.

[Signature Pages to follow]

IN WITNESS WHEREOF, SIDA has executed and delivered this Certification effective as of the date first above written.

CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY, a corporate
governmental agency constituting a body
corporate politic and a public benefit
corporation organized and existing under the
laws of the State of New York

By: 
Name: William M. Ryan
Title: Chairman

ACKNOWLEDGEMENT

Carousel Owner and Pyramid Company of Onondaga each hereby acknowledge that it has received a copy of the foregoing Certification, believe the facts certified thereto are true and accurate and further acknowledges and agrees that it is not an intended beneficiary or third party beneficiary thereunder.

ACKNOWLEDGED AS OF THE DATE FIRST WRITTEN ABOVE:

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

By: Carousel General Company LLC, a New York
limited liability company, its general partner

By: Carousel Center Holdings, Inc., a Delaware
corporation, its managing member

By: 
Name: Bruce A. Kenan
Title: Vice President

PYRAMID COMPANY OF ONONDAGA,
a New York general partnership

By: 
Name: Bruce A. Kenan
Title: Partner and Executive Committee Member

SCHEDULE A

Amendments

None.

CERTIFICATION

THIS CERTIFICATION, effective as of June 6, 2014 (this "Certification"), by **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate politic and a public benefit corporation organized and existing under the laws of the State of New York (together with any subrogee of its rights or interests, "SIDA"), in favor of **JPMORGAN CHASE BANK, NATIONAL ASSOCIATION**, a banking association chartered under the laws of the United States of America, in its capacity as the lender under the CMBS Loan (together with its successors, transferees and assigns, the "CMBS Senior Creditor"), and **JPMORGAN CHASE BANK, NATIONAL ASSOCIATION**, a banking association chartered under the laws of the United States of America, in its capacity as the lender under the Mezzanine Loan (together with its successors, transferees and assigns, the "CMBS Mezzanine Creditor" and the CMBS Senior Creditor and the CMBS Mezzanine Creditor being herein referred to collectively as the "CMBS Creditors").

RECITALS

WHEREAS, SIDA, Manufacturers and Traders Trust Company, as PILOT Trustee ("PILOT Trustee") and Manufacturers and Traders Trust Company, as Bond Trustee ("Bond Trustee"), and together with PILOT Trustee and SIDA, the "Other Parties") and the CMBS Creditors are entering into that certain Expansion Interested Parties Agreement, dated as of the date hereof, with respect to the Expansion Parcel (the "Expansion Interested Party Agreement");

WHEREAS, the Expansion Interested Party Agreement, among other things, evidences certain agreements with respect to the relationship between (a) the Secured Parties and the Existing Expansion PILOT Documents, the Other Expansion Documents and the Assigned SIDA Agreement Provisions, on the one hand, and (b) the CMBS Senior Creditor and the CMBS Loan Documents and the CMBS Mezzanine Creditor and the Mezzanine Loan Documents, on the other hand; and

WHEREAS, as a condition to the CMBS Creditors making the CMBS Loan and the Mezzanine Loan, as defined in the Expansion Interested Parties Agreement, the CMBS Creditors have requested that SIDA certify as to certain items relative to the Existing Expansion PILOT Documents, the Other Expansion Documents and the Assigned SIDA Agreement Provisions which SIDA has agreed to do pursuant to the terms and conditions hereof. PILOT Trustee and Bond Trustee are delivering a separate certification.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SIDA hereby agrees in favor of the CMBS Creditors as follows:

1. Definitions: Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Expansion Interested Party Agreement and if not

defined in the Expansion Interested Party Agreement, as defined in the Master Glossary (as defined in the Expansion Interested Party Agreement).

2. Certification: SIDA hereby certifies to each of the CMBS Creditors with respect to the Existing Expansion PILOT Documents, the Other Expansion Documents and the Assigned SIDA Agreement Provisions that:

(i) Expansion Owner has met all of its regularly scheduled monetary obligations and, to SIDA's knowledge, all of its other monetary obligations, under the Existing Expansion PILOT Documents, the Other Expansion Documents and the Assigned SIDA Agreement Provisions that are, under the terms thereof, to be performed by Expansion Owner through the date hereof;

(ii) to SIDA's knowledge, Expansion Owner has performed, in all material respects, all of its non-monetary obligations under the Existing Expansion PILOT Documents, the Other Expansion Documents and the Assigned SIDA Agreement Provisions that are to be performed through the date hereof and, to SIDA's knowledge, no default or event has occurred or condition exists which, with the giving of notice, the passage of time, or both, would constitute a default of Expansion Owner under the Existing Expansion PILOT Documents, the Other Expansion Documents or the Assigned SIDA Agreement Provisions;

(iii) the Existing Expansion PILOT Documents, the Other Expansion Documents and the Assigned SIDA Agreement Provisions are in full force and effect and, except as set forth on Schedule A annexed hereto, have not been modified or amended and represent the entire understanding of the parties thereto with respect to the subject matter thereof;

(iv) Expansion Owner has completed construction of the First Phase by the dates required under the SIDA Agreement, the Expansion Installment Sale Agreement and the Ordinance, and to the best of SIDA's knowledge, the First Phase was completed in accordance with all applicable requirements of the SIDA Agreement and the Expansion Installment Sale Agreement;

(v) SIDA has not made any claim against Expansion Owner for any indemnification obligations, other than for fees and costs associated with this refinancing, under any of the Existing Expansion PILOT Documents, the Other Expansion Documents or the Assigned SIDA Agreement Provisions, and to SIDA's knowledge, no event or circumstance exists that is reasonably expected to result in an indemnification obligation of Expansion Owner;

(vi) Attached as Schedule B hereto is a true and complete copy of the Election Notice delivered by Expansion Owner, which Election Notice has not been modified or amended; and

(vii) the individual signatory, in the ordinary course of operations of SIDA, would generally have knowledge of the existence or absence of facts relevant hereto.

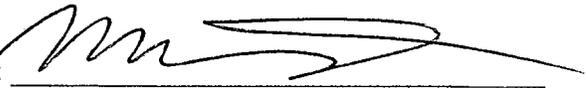
Any certification with respect to the existence or absence of facts based on knowledge of SIDA is intended to signify that no information has come to the actual attention of the individual signatory hereto which has given him actual knowledge of the existence or absence of such facts. Such individual signatory has not undertaken any independent investigation to determine the existence or absence of such facts, and no inference as to his knowledge of the existence or absence of such facts should be drawn therefrom.

The certifications provided herein are rendered as of the date hereof. SIDA has no undertaking to supplement these certifications or to advise the CMBS Creditors of any developments which may occur after the date hereof, whether or not coming to its attention and whether or not the same would or might (if now existing and known to the signatory) cause any changes or modifications to any certification provided hereunder by reason hereof.

[Signature Pages to follow]

IN WITNESS WHEREOF, SIDA has executed and delivered this Certification effective as of the date first above written.

CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY, a corporate
governmental agency constituting a body
corporate politic and a public benefit
corporation organized and existing under the
laws of the State of New York

By: 

Name: William M. Ryan

Title: Chairman

ACKNOWLEDGEMENT

Expansion Owner and Pyramid Company of Onondaga each hereby acknowledge that it has received a copy of the foregoing Certification, believe the facts certified thereto are true and accurate and further acknowledges and agrees that it is not an intended beneficiary or third party beneficiary thereunder.

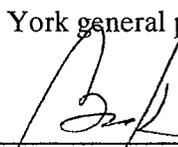
ACKNOWLEDGED AS OF THE DATE FIRST WRITTEN ABOVE:

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

By: Carousel DestiNY Holdings LLC, a Delaware
limited liability company, its managing member

By: 
Name: Bruce A. Kenan
Title: Vice President

PYRAMID COMPANY OF ONONDAGA,
a New York general partnership

By: 
Name: Bruce A. Kenan
Title: Partner and Executive Committee Member

[SIGNATURE PAGE TO TRUSTEE ESTOPPEL (DESTINY)]

SCHEDULE A

Amendments

None.

SCHEDULE B

Election Notice