

APPROVING RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on April 18, 2017, at 8:30 o'clock a.m. in the Common Council Chamber, 233 East Washington Street, Syracuse, New York.

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

PRESENT: M. Catherine Richardson, Esq., Steven Thompson, Kenneth Kinsey

EXCUSED: William Ryan, Donald Schoenwald

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff Present: Honora Spillane, Susan Katzoff, Esq., John Vavonese, Debra Ramsey-Burns; Others Present: Aggie Lane, Ed Riley, Rich Engel, Esq., Sara Stevens; Media Present: Rick Moriarty, Channel 9 News.

The following Resolution was offered by Kenneth Kinsey and seconded by Steven Thompson:

RESOLUTION APPROVING THE APPOINTMENT OF THE COMMUNITY HOTEL RESTORATION COMPANY 1, LLC AS AGENT OF THE AGENCY FROM APRIL 1, 2017 THROUGH AND INCLUDING OCTOBER 1, 2017

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, by resolution adopted on March 5, 2014 (the “**Inducement Resolution**”), the Agency approved the appointment of Syracuse Community Hotel Restoration Company 1, LLC (the “**Company**”) as the Agency’s agent for purposing of undertaking a project (the “**Project**”) at the request of the Company consisting of: (A)(i) the acquisition by the Agency of a leasehold or fee interest in an approximately 1.014 acre lot of improved real property located at 100-08 Onondaga St. E. and Warren Street in the City of Syracuse, New York (the “**Land**”) by negotiated purchase or by exercising its power of eminent domain consistent with the New York Eminent Domain Procedure Law, the General Municipal Law and all other applicable laws; (ii) the transfer by the Agency of its interest in the Land and Facility to the company by quit claim deed; (iii) the renovation and reconstruction of the existing approximate 413,000 square foot 11 story historic hotel (formerly known as the Hotel Syracuse) located on the Land for use as an approximate 261 room full service hotel with one or more restaurants, lobby, lounge and bar, with approximately 66,775 square feet of meeting space and approximately 35,000 square feet of retail/commercial space, together with landscaping and site improvements, all located on the Land and all to be designated as the “Convention Center Hotel” in connection with the Onondaga County OnCenter located near the Project (the “**Facility**”); (iv) the acquisition and installation thereon of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use taxation and mortgage recording tax (the “**Financial Assistance**”); (C) the appointment of the Company as an agent of the Agency in connection with the acquisition, renovation, reconstruction and equipping of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease or sale agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company and the Corporation¹ to the Agency; and the sublease of the Project Facility back to the Company and the Corporation pursuant to a sublease agreement; and

WHEREAS, among other things, pursuant to the Inducement Resolution, the Agency appointed the Company as an agent of the Agency for purposes of completing the Project and benefitting from the sales and use tax exemption (the “**Appointment**”) and authorized the Company to appoint Additional Agents (as defined in the Inducement Resolution); and

WHEREAS, in October, 2015 the Agency and the Company closed on the lease transaction in connection with the Project and the Agency issued a Sales Tax Appointment Letter (“**Letter**”) to the Company and filed a Form ST-60 – IDA Appointment of Project Operator or Agency for Sales Tax Purposes with the New York State Department of Taxation and Finance. The Letter and the Company’s appointment originally were set to expire on June 1, 2016; and

WHEREAS, thereafter, at the request of the Company, the Appointment was extended from June 1, 2016 through and including September 30, 2016, to provide the Company additional time to complete the Project in accordance with historic preservation (the “**Extension**”); and

¹ Corporation shall mean Syracuse Community Hotel, Inc., a corporation organized and existing under the laws of the State of New York having an address of 500 South Warren Street, P.O. Box 998, Syracuse, New York 13201 and its permitted successors and assigns.

WHEREAS, the amount State and local sales and use tax exemptions approved by the Agency as part of the Financial Assistance was not to exceed \$1,481,000; and

WHEREAS, as part of its annual reporting, the Company reported to the State and the Agency that as of December 31, 2016, the Company had realized \$1,308,200 in State and local sales and use tax exemptions leaving a balance of unused exemption in the amount of \$172,800 (the "**Remaining Exemption**"); and

WHEREAS, by correspondence dated April 6, 2017, the Company advised the Agency that while the hotel portion of the Project was completed and is open for business, certain of the restaurant space within the Project Facility is still under renovation and they are requesting that the Company's appointment as the Agency's agent be continued for the sole purpose of completing these spaces as originally anticipated; and

WHEREAS, the Company has advised that the Remaining Exemption will be sufficient to complete the balance of the Project Facility; and

WHEREAS, the appointment of the Company as the agent of the Agency for the purpose of completing the Project and benefiting from State and local sales and use tax exemptions is in furtherance of the Financial Assistance that was previously approved for the Project, which underwent an environmental review by the Agency pursuant to the State Environmental Quality Review Act ("**SEQRA**"), and the requested Appointment is insubstantial and does not require reconsideration or further review by the Agency under SEQRA; and

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 further appointment of the Company as the Agency's agent does not amount to a significant change in the Project from what was originally approved by the Agency, and therefore further review under SEQRA and amendment of the Agency's prior SEQRA negative declaration shall not be required.

(b) The Agency authorizes, subject to the terms and conditions hereof, the appointment of the Company as its agent from April 1, 2017 through and including October 1, 2017, for the purpose of completing the Project Facility as set forth herein, and to benefit from the State and local sales and use tax exemption up to an including the Remaining Exemption (the "**Second Appointment**").

(2) As a condition to the Second Appointment, the Company shall confirm and acknowledge that the lease transactional documents, executed as of October 1, 2015 by and between the Company and the Agency or in favor of the Agency (collectively the "**Transactional Documents**"), are in full force and effect and that there are no events of default thereunder.

(3) The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Company shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from New York State and local sales and use taxation. The State and local sales and use tax exemption benefits comprising the Financial Assistance previously approved for the Project was an aggregate amount not to exceed \$1,481,000.

(4) As a condition precedent to the Second Appointment, the Company has, or shall provide evidence satisfactory to the Agency that the total amount of State and local sales and use tax exemption benefits received to date as part of the Financial Assistance previously approved for the Project has not exceeded \$1,308,200.

(5) The Agency is authorized to execute all documents necessary to effectuate the Second Appointment of the Company and/or Additional Agents (as that term is defined in the Inducement Resolution) including but not limited to issuance of a Sales Tax Appointment Letter and completion of the appropriate "IDA Appointment of Project Operator or Agent for Sales Tax Purposes" (Form ST-60) for each of the entities; and the Chairman, the Vice Chairman and/or the Executive Director of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the documents upon the advice of counsel to the Agency. The execution thereof by the Chairman, Vice Chairman and/or Executive Director constitutes conclusive evidence of such approval.

(6) As a further condition of the Second Appointment, the Company will submit to the Agency: (i) any administrative fee associated with this request; (ii) any legal fees incurred by the Agency in connection with this request and the Second Appointment; and (iii) the updated contract status report, or other applicable information, requested by the Agency with respect to the Second Appointment.

(7) The Company shall provide or cause its Additional Agents to provide, and the Agency shall maintain, records of the amount of State and local sales and use tax exemption benefits provided to the Project and the Company shall, and cause each Additional Agent, to make such records available to the Agency and the State Commissioner of Taxation and Finance (the "**Commissioner**") upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company or Project's receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause its Additional Agents to make, all records and information regarding State and local sales and use tax exemption benefits realized by the Project available to the Agency or its designee upon request.

(8) 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.

(9) The Secretary 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.

(10) 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> |
|-------------------------|------------|------------|
| M. Catherine Richardson | X | |
| Steven Thompson | X | |
| Kenneth Kinsey | X | |

The foregoing Resolution was thereupon declared duly adopted.

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

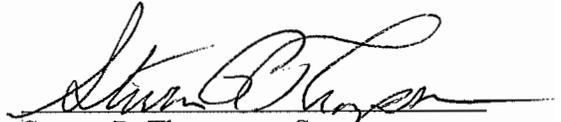
I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “**Agency**”) held on April 18, 2017, with the original thereof on 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 16 day of May, 2017.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Steven P. Thompson, Secretary

(S E A L)