

RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on May 20, 2014 at 8:30 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 the Chairman and, upon the roll being duly called, the following members were:

PRESENT: William Ryan, M. Catherine Richardson, Esq., Donald Schoenwald, Esq., Pamela Hunter, Steven Thompson

The following persons were **ALSO PRESENT:** **Staff Present:** Benjamin Walsh, Susan Katzoff, Esq., Debra Ramsey-Burns, Thomas Babilon, Esq., Judith DeLaney; **Others Present:** Aggie Lane, Timothy Lynn, Esq., Bob Lawson, Robert Frank, Barry Lentz, C. Johnson, Diana Green, Peter King; **Media:** Rick Morarity

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

RESOLUTION APPROVING THE REFINANCING OF CERTAIN MORTGAGES 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, civic 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. and certain affiliated companies including Destiny USA Holdings, LLC (collectively, "**PCO**"), the Agency undertook a project consisting of the construction, renovation, reconfiguration, improving and equipping of the Project Facility (the "**Destiny Project**") and the acquisition, construction, improvement, equipping and completion of the Public Improvements (the "**Public Improvement Project**" and together with the Destiny Project, the "**Project**") intended to be completed in one or more Phases.

WHEREAS, in conjunction with the Project, the Agency issued its \$228,085,000 City of Syracuse Industrial Development Agency PILOT Revenue Bonds, Series 2007A (Carousel Center Project) (the “**Series 2007A Bonds**”) and its \$97,648,352 City of Syracuse Industrial Development Agency PILOT Revenue Bonds, Taxable Series 2007B (Carousel Center Project) (the “**Series 2007B Bonds**”) and with the Series 2007A Bonds, the “**Bonds**”); and

WHEREAS, in conjunction with the Project, the Agency and Carousel Center Company L.P. (“**CCC**”), granted Citigroup Global Markets Realty Corp. (“**Citigroup**”) a Consolidated, Amended and Restated Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of December 28, 2005, as modified by that certain Partial Release of Mortgage by Citigroup Global Markets Realty Corp., a New York corporation dated as of February 1, 2007, and as same was further amended by that certain agreement dated March 11, 2011 by and among CCC, Agency and Citigroup (collectively, the “**Carousel Mortgage**”).

WHEREAS, in conjunction with the Project, the issuance of the Bonds and other Project financing, the Agency and DestiNY USA Holdings, LLC (“**DUSA**”) granted Citigroup a Building Loan Mortgage, Security Agreement, Financing Statement, Fixture Filing and Assignment of Leases, Rents and Security Deposits dated as of February 27, 2007 (the “**Building Loan Mortgage**”); and

WHEREAS, in conjunction with the Project, the issuance of the Bonds and other Project financing, the Agency and DUSA, granted Citigroup a Project Loan Mortgage, Security Agreement, Financing Statement, Fixture Filing and Assignment of Leases, Rents and Security Deposits, dated as of February 27, 2007 (the “**Project Loan Mortgage**” and together with the Building Loan Mortgage, the “**DUSA Mortgage**”); and

WHEREAS, on March 11, 2011, the DUSA Mortgage was modified and consolidated pursuant to Agreement of Consolidation and Modification of Mortgage, Security Agreement, Financing Statement, Fixture Filing and Assignment of Leases, Rents and Security Deposits by and between DUSA, Agency and Citigroup (the “**Destiny Mortgage**”); and

WHEREAS, in January 2012, CCC and DUSA negotiated the refinancing of the loans secured by the Carousel Mortgage and the Destiny Mortgage, respectively, with J.P. Morgan Chase and certain mezzanine lenders (the “**First Refinance**”). The Agency participated in the First Refinance; and

WHEREAS, CCC and DUSA have each negotiated the second refinance of the loans secured by the Carousel Mortgage and the Destiny mortgage, respectively, with JPMorgan Chase Bank, National Association (“**JPM**”) which will act as the mortgagee and the mezzanine lender in this second refinance (the “**Second Refinance**”); and

WHEREAS, CCC and DUSA have each requested that the Agency participate in the Second Refinancing of the Carousel Mortgage and the Destiny Mortgage, respectively

WHEREAS, the Agency has a contractual obligation to cooperate in the refinancing of the Carousel Mortgage and the Destiny Mortgage;

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 action taken hereunder 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:

(1) the action taken hereunder in conjunction with the Refinancing Documents (as defined herein) constitutes a Type II action, and therefore no further environmental review is required.

(2) Based upon the representations made by CCC and DUSA to the Agency, the Agency hereby makes the following findings and determinations:

(a) The Agency will cooperate in the execution and delivery of all necessary documents to effectuate the Second Refinance of the Carousel Mortgage and the Destiny Mortgage as outlined herein, including but not limited to the execution of new mortgages with respect to the existing mall parcel previously secured by the Carousel Mortgage and the expansion parcel secured by the Destiny Mortgage (collectively the “**Mortgages**”), an Intercreditor Agreement by and among JPM as mortgage lender, JPM as mezzanine lender, the Agency and Manufacturers and Traders Trust Company in its capacity as both Bond Trustee and PILOT Trustee (the “**Intercreditor Agreement**”), an Expansion Interested Party Agreement by and among JPM as mortgage lender, JPM as mezzanine lender, the Agency and Manufacturers and Traders Trust Company in its capacity as both Bond Trustee and PILOT Trustee (the “**Interested Party Agreement**”), certificates, a Pledge and Assignment from the Agency to JPM and acknowledged by DUSA, an Assignment of PILOT Documents Agreement by CCC to JPM and consented to the Agency and Pyramid Company of Onondaga, an Assignment of PILOT Documents Agreement by DUSA to JPM and consented to by the Agency and Pyramid Company of Onondaga, satisfactions of PILOT Mortgages, if any, and all other documents, which upon the advice of Bond Counsel and Agency Counsel are required in accordance with the anticipated refinancing and in a form acceptable to counsel (collectively, the “**Refinancing Documents**”);

(b) The Chairman and Vice Chairman of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Refinancing Documents subject to: (i) the review and approval of Agency’s Bond Counsel; and (ii) compliance with all applicable documents executed and/or adopted in conjunction with the issuance of the Bonds, including but not limited to

the Amended and Restated Agency Agreement, dated as of December 31, 2005, by and between the Agency and PCO, as the same may be amended or restated from time to time in accordance with its terms (collectively the "**Bond Documents**"). The execution thereof by the Chairman or Vice Chairman shall constitute conclusive evidence of such approval;

(c) The obligation of the Agency to consummate any transaction contemplated herein or hereby is subject to and further conditioned upon the delivery by CCC and/or DUSA of all new loan documents, any other documents required by the Agency or its counsel as they deem necessary in conjunction therewith and the review and approval of same by Bond Counsel;

(d) Should the Agency's participation in the refinance or any of the Refinancing Documents be challenged by any party, in the courts or otherwise, PCO, DUSA and CCC 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 refinance or the Refinancing 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, DUSA or CCC hereunder or otherwise;

(e) The execution and delivery of the Refinancing Documents are contingent upon remittance by the PCO, DUSA and/or CCC, or one of their affiliated companies, of all outstanding legal fees to Hiscock & Barclay, LLP in conjunction with the Project and upon remittance to the Agency of any associated administrative fee due in conjunction with the refinancing contemplated hereby; and

(f) The Secretary of the Agency is hereby authorized to distribute copies of this Resolution to PCO, CCC and DUSA and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

(g) 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:

	AYE	NAY
William Ryan	X	
M. Catherine Richardson, Esq.	X	
Donald Schoenwald, Esq.	X	
Pamela Hunter	X	
Steven Thompson	X	

The foregoing Resolution was thereupon declared duly adopted.

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

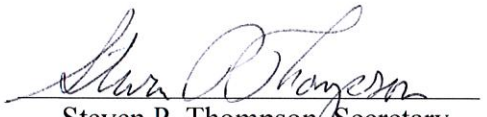
I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the "**Agency**") held on May 20, 2014, with the original thereof on 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 28th day of May, 2014.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Steven P. Thompson, Secretary

(S E A L)