

DESTINY USA REAL ESTATE, LLC

**SEQR RESOLUTION
(3101-14-01B)**

At a regular meeting of the Onondaga County Industrial Development Agency (the “Agency”), held on April 12, 2016 at 8:00 a.m. at 333 W. Washington Street, Syracuse, New York, the following members were:

PRESENT:

Patrick Hogan
Steve Morgan
Janice Herzog
Susan Stanczyk

ABSENT:

Daniel Queri
Victor Ianno
Jessica Crawford

ALSO PRESENT:

Julie Cerio, Executive Director
Anthony P. Rivizzigno, Esq., Agency Counsel
Barry Carrigan, Esq., Nixon Peabody LLP Special Counsel

Upon motion made and seconded, the following resolution was duly adopted by the Agency with its members voting as follows:

Aye

Nay

Patrick Hogan
Steve Morgan
Janice Herzog
Susan Stanczyk

**RESOLUTION DECLARING
THE AGENCY AS LEAD AGENCY AND
ADOPTING A NEGATIVE DECLARATION**

WHEREAS, the Onondaga County Industrial Development Agency (the “**Agency**”) is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “**Enabling Act**”), Chapter 435 of the 1970 Laws of New York, as amended constituting Section 895 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter 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, educational or cultural facilities, railroad facilities, horse racing facilities and continuing care retirement communities, among others, 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 of New York (the “**State**”) and to improve their recreational 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, construct, reconstruct, improve, maintain, equip or furnish one or more “projects” (as defined in the Act); to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of said projects; and to issue bonds and provide for the rights of the holders thereof; and

WHEREAS, Destiny USA Real Estate, LLC (the “**Company**”), has presented an application, as amended (the “**Application**”) to the Agency, a copy of which was presented at this meeting and copies of which are on file at the office of the Agency, requesting the Agency consider the undertaking of a Project (as hereinafter defined); and

WHEREAS, pursuant to Section 859-a of the Act, prior to the Agency providing any financial assistance to any project, the Agency, among other things, must hold a public hearing with respect to the Project; and

WHEREAS, the Agency desires to provide for compliance with the provisions of Section 859-a of the Act;

WHEREAS, the Project will be used in making retail sales to customers who visit the project and would be considered a “retail facility” in accordance with the provisions of Section 862(a) of the Act, however, based upon the representations and warranties of the Company in the Application, the project is a “Tourism Destination” as defined in Section 862(2)(a) of the Act and therefore not subject to the prohibitions on retail facilities contained in Section 862(2)(a) of the Act; and

WHEREAS, the Agency is a local agency pursuant to the New York State Environmental Quality Review Act (“**SEQR**”), ECL Section 8-0101, *et seq.*, and implementing regulations, 6 NYCRR Part 617 (the “**Regulations**”); and

WHEREAS, undertaking the Project as defined herein is an Action as defined by SEQR; and

WHEREAS, 6 NYCRR § 617.4 establishes thresholds for the classification of Type 1 Actions; and

WHEREAS, to aid the Agency in determining the classification of Project under SEQR and whether the Project may have a significant effect upon the environment, the Company has prepared and submitted to the Agency a full Environmental Assessment Form (“**EAF**”) and related documents (collectively, the “**Questionnaire**”) with respect to the Project, a copy of which is on file at the office of the Agency; and

WHEREAS, the Questionnaire has been reviewed by the Agency; and

WHEREAS, it appears that based upon the information contained in the Questionnaire, the Project may exceed the thresholds for a Type 1 Action under SEQR; and

WHEREAS, based upon the information contained in the Questionnaire, and independent review by the Agency, there are currently no other Involved Agencies for review of the Action; and

WHEREAS, 6 NYCRR § 617.6(b)(1) establishes that where, as here, there are no other Involved Agencies, the Agency shall be Lead Agency; and

WHEREAS, the environmental impacts associated with a substantially larger building at the same general location as part of a substantially larger development project (eg Destiny USA) have been previously considered in accordance with the requirements of SEQR and findings statements made by the City of Syracuse Industrial Development Agency (“**SIDA**”) that all relevant environmental impacts had been adequately addressed and that no further SEQR review was warranted; and

WHEREAS, in completing its review in accordance with SEQR, the Agency has relied in part upon the extensive prior SEQRA record (see Schedule A) that identified and examined environmental impacts associated with such substantially larger project, which project included construction of a larger building at the same site as now proposed;

WHEREAS, the Agency has also considered the environmental impacts of the Project as now proposed (see Schedule A);

WHEREAS, the physical circumstances in and around the Project site remain substantially the same as that considered by SIDA.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE
ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:**

- Section 1. The project to which the Agency may provide financial assistance is described as follows: (A) the acquisition of a parcel of land located at 311-371 Hiawatha Boulevard, Syracuse, New York 13204 and the construction and equipping of an approximately 183,000 square foot, 209 room all suites hotel to be located thereon, together with the acquisition and installation of furniture, fixtures and equipment to provide a full range of services to the business and leisure traveler visiting the City of Syracuse, County of Onondaga (collectively, the “**Project**”); and (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales tax and the entering into of a payment in lieu of tax agreement (a “**PILOT Agreement**”) (collectively, the “**Financial Assistance**”).
- Section 2. The Project is a Type 1 Action pursuant to SEQR.
- Section 3. There are no other Involved Agencies for the Project and therefore, the Agency declares itself Lead Agency for purposes of review of the Project.
- Section 4. Based upon the Questionnaire reviewed by the Agency and other representations and information furnished regarding the Project, and comparing that information to the criteria contained in SEQR to determine whether the approval thereof may have a significant effect on the environment or may result in significant environmental impacts not previously addressed, the Agency determines that the Project will not have a “significant effect” on the environment and will not result in any significant environmental impacts not previously addressed, therefore, an environmental impact statement will not be prepared. This determination constitutes a negative declaration for purposes of SEQR.
- Section 5. The basis for this determination is set forth in the Questionnaire, List of Supporting Documents, Negative Declaration and Evaluation of the Magnitude and Importance of Project Impacts, all attached hereto as Schedule A and incorporated by reference herein.
- Section 6. This Negative Declaration shall be forwarded to the New York State Department of Environmental Conservation and to all other parties and Interested and Involved Agencies as may be required by the provisions of 6 NYCRR § 617.12(b).
- Section 7. Notice of this Negative Declaration and Determination of Non-Significance shall be submitted for publication as may be required by 6 NYCRR § 617.12(c).
- Section 8. The Chairman, Vice Chairman, Executive Director or Assistant Secretary of the Agency are hereby authorized and directed to distribute copies of this Resolution

to the Company and to do such further things and perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 9. This Resolution shall take effect immediately.

Schedule A

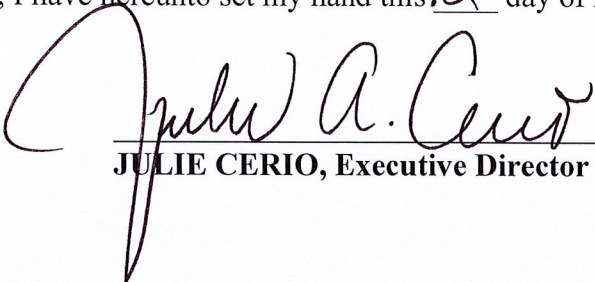
STATE OF NEW YORK)
 : SS.:
COUNTY OF ONONDAGA)

I, the undersigned Executive Director of the Onondaga County Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on April 12, 2016 with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matter therein referred to.

I FURTHER CERTIFY that (A) all members of said Agency had due notice of said meeting, (B) said meeting was in all respects duly held, (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law, and (D) there was a quorum of the members of the Agency present throughout said meeting.

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 hereunto set my hand this 12 day of April, 2016.



JULIE CERIO, Executive Director