

**DESTINY USA REAL ESTATE, LLC**

**RESOLUTION AUTHORIZING AN OMNIBUS AMENDMENT  
TO TRANSACTION DOCUMENTS  
(3101-14-01B)**

A regular meeting of the Onondaga County Industrial Development Agency (the “Agency”) was convened in public session on February 8, 2024, at 8:30 a.m., local time, at 335 Montgomery Street, 2<sup>nd</sup> Floor, Syracuse, New York.

The meeting was called to order by the (Vice) Chairperson of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:** Patrick Hogan  
Janice Herzog  
Susan Stanczyk  
Kevin Ryan  
Fanny Villarreal  
Cydney Johnson  
Elizabeth Dreyfuss (Zoom)

**ABSENT:**

**ALSO PRESENT:** Robert M. Petrovich, Executive Director  
Jeffrey W. Davis, Esq., Agency Counsel  
Amanda M. Fitzgerald, Esq., Agency Counsel

The following resolution was offered by Susan Stanczyk, seconded by Fanny Villarreal, to wit:

**RESOLUTION AUTHORIZING EXECUTION AND DELIVERY OF AN  
OMNIBUS AMENDMENT TO TRANSACTION DOCUMENTS IN  
CONNECTION WITH A CERTAIN PROJECT FOR DESTINY USA REAL  
ESTATE, LLC AND DETERMINING OTHER MATTERS IN  
CONNECTION THEREWITH.**

WHEREAS, the Agency is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting 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”) and Chapter 435 of the Laws of 1970 of the State of New York and Chapter 676 of the Laws of 1975, 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 manufacturing, warehousing, research, commercial and industrial facilities, among others, for the purpose of promoting, attracting and developing 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"), to improve their 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 and install one or more "projects" (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, Destiny USA Real Estate, LLC (the "Company") submitted an application to the Agency on or about February 29, 2016 (the "Application") and a final approving resolution was duly adopted by the members of the board of the Agency on April 12, 2016 (the "Approving Resolution") pursuant to which the Agency undertook a project (the "Project") on behalf of the Company consisting of the following: (A) the acquisition of a leasehold interest in a parcel of land located at 311-371 Hiawatha Boulevard, Syracuse, New York 13204 (the "Land") and the construction and equipping of an approximately 183,000 square foot 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 "Facility", and together with the Land, the "Project Facility"); 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 taxes, real estate transfer taxes, mortgage recording taxes and real estate taxes (collectively, the "Financial Assistance"); (C) the leaseback or sale of the Facility to the Company; and (D) assisting the Company in the financing of the Facility; and

WHEREAS, in connection with the Project and the granting of the Financial Assistance, the Agency and the Company entered into various documents (the "Transaction Documents"), including, but not limited to: (A) a lease and leaseback agreement, dated as of June 1, 2016 (the "Lease Agreement") by and between the Company and the Agency, pursuant to which, among other things, the Agency acquired a leasehold interest in the Land and the improvements now or hereafter located on the Land from the Company, and the Company agreed to undertake and complete the Project as agent of the Agency and the Company further agreed to lease the Project Facility from the Agency, (B) a memorandum of lease and leaseback agreement dated as of June 1, 2016 (the "Memorandum of Lease"), (C) a payment in lieu of tax agreement dated as of June 1, 2016 by and between the Agency and the Company (the "PILOT Agreement") whereby the Company agreed to make certain payments in lieu of real property taxes, and (D) an agent and financial assistance agreement dated as of June 1, 2016 (the "Agent Agreement"), which sets forth the terms and conditions under which certain of the Financial Assistance shall be provided to the Company; and

WHEREAS, the Memorandum of Lease was recorded in the Office of the Onondaga County Clerk on June 15, 2016 in book 5376 at page 774 as Instrument Number 1925516; and

WHEREAS, in accordance with the Application, the Approving Resolution and documentation submitted by the Company in connection therewith, the Financial Assistance granted to the Company is subject to the ongoing requirement that the Company maintain seventy-four (74) full time equivalent employees ("FTE Employees") at the Project Facility (the "Job

Commitment”) which Job Commitment can be met using FTE Employees employed at the Project Facility by a third party related or unrelated to the Company; and

WHEREAS, the Agency and the Company desire to amend the Transaction Documents to state the Job Commitment, clarify ambiguities and memorialize the current understanding of the Project requirements between the Company and the Agency; and

WHEREAS, Agency counsel has drafted an omnibus amendment of Transaction Documents (the “Omnibus Amendment”), which Omnibus Amendment, upon execution and delivery by the Agency and the Company, will expressly state the Job Commitment, delete those provisions regarding jobs no longer relevant to the Project and memorialize requirements that have been informally clarified since the transaction closing; and

WHEREAS, the Agency desires to consent to the execution and delivery of the Omnibus Amendment;

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), the Project had been subject to an environmental review pursuant to the requirements of the State Environmental Quality Review Act and the regulations thereunder, resulting in the issuance of a Negative Declaration by the Agency by resolution dated April 12, 2016; and

WHEREAS, pursuant to SEQRA, the Agency must determine the potential environmental significance of the execution and delivery of the Omnibus Amendment.

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

Section 1. Based upon the representations made by the Company to the Agency, the Agency makes the following findings and determinations:

(A) The Project constitutes a “project” within the meaning of the Act; and

(B) The execution and delivery of the Omnibus Amendment does not constitute a significant change from the original Project that was reviewed under SEQRA and therefore no further or additional review under SEQRA is required; and

(C) The execution and delivery of the Omnibus Amendment is not a material change and does not require a change in the Financial Assistance previously approved by the Agency.

Section 2. The Agency hereby approves the execution and delivery of the Omnibus Amendment and determines to execute and deliver the Omnibus Amendment and any other documents and certificates required in connection therewith (collectively, the “2024 Amendatory Documents”).

Section 3. The 2024 Amendatory Documents shall (A) be executed, issued and delivered at such time as the Chairperson (or Vice Chairperson) or the Executive Director of the Agency, with the assistance of Agency Counsel, shall determine, and (B) be in such form as hereinafter approved by the Chairperson (or Vice Chairperson) or the Executive Director of the Agency in accordance with Section 6 hereof.

Section 4. The Chairperson (or Vice Chairperson) and the Executive Director of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the 2024 Amendatory Documents, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in the forms thereof as the Chairperson (or Vice Chairperson) or the Executive Director shall approve, the execution thereof by the Chairperson (or Vice Chairperson) or the Executive Director to constitute conclusive evidence of such approval.

Section 5. 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. The Chairperson (or Vice Chairperson) and the Executive Director of the Agency are each hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the 2024 Amendatory Documents, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the Chairperson (or Vice Chairperson) or the Executive Director of the Agency, with the assistance of Agency Counsel, desirable and proper to effect the purposes of this Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the 2024 Amendatory Documents binding upon the Agency.

Section 7. The Chairperson, (or Vice Chairperson) or the Executive Director of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 8. This Resolution shall take effect immediately upon adoption.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	AYE	NAY	ABSTAINED	ABSENT
Patrick Hogan	X			
Janice Herzog			X	
Cydney Johnson	X			
Elizabeth Dreyfuss (Zoom)				
Susan Stanczyk	X			
Kevin Ryan	X			
Fanny Villarreal	X			

The Resolution was thereupon declared duly adopted.

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

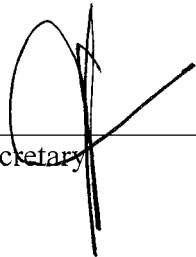
I, the undersigned Secretary of the Onondaga County Industrial Development Agency, DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on February 8, 2024, with the original thereof on file in my office, and that the same is a true and correct copy of such 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 the 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 15 day of February, 2024.

(SEAL)

  
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Secretary