

**FINAL RESOLUTION**  
*(Norwich Yonkers LLC Project)*

A regular meeting of the City of Yonkers Industrial Development Agency was convened on November 19, 2014, in the Mayor's Reception Room, City Hall, 40 South Broadway, Yonkers New York 10701.

The following resolution was duly offered and seconded, to wit:

**Resolution No. 11/2014-32**

FINAL RESOLUTION OF THE CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") AUTHORIZING THE EXECUTION AND DELIVERY OF THE PROJECT AGREEMENT, COMPANY LEASE AGREEMENT, AGENCY SUBLEASE AGREEMENT, PAYMENT-IN-LIEU-OF-TAXES-AGREEMENT, AND, IF NECESSARY, A MORTGAGE AND RELATED DOCUMENTS WITH RESPECT TO THE NORWICH YONKERS LLC PROJECT (AS DESCRIBED BELOW) LOCATED AT 5 EXECUTIVE BOULEVARD, YONKERS, NEW YORK

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 83 of the Laws of 1982 of the State of New York, as may be amended from time to time (collectively, the "Act"), the City of Yonkers Industrial Development Agency (the "Agency") was created with the authority and power among other things, to assist with the acquisition of certain projects as authorized by the Act; and

WHEREAS, Norwich Yonkers LLC, a Delaware limited liability company with offices at c/o True North Hotel Group, 7300 West 110<sup>th</sup> Street, Suite 990, Overland Park, Kansas 66210 (the "Company"), previously submitted an application (the "Application") to the Agency, requesting financial assistance through a straight-lease transaction (as each such term is defined in the Act) for a proposed project (the "Project") in the City of Yonkers (the "City");

WHEREAS, the Project shall consist of the Agency taking title, possession or control (by deed, lease, sublease, license or otherwise) of approximately 2.9 acres of land at 5 Executive Boulevard, Yonkers, New York (collectively, the "Land"); the lease, sublease, or installment sale of the Land back to the Company; and the construction, renovation, improving, maintenance and equipping thereon of an approximately 84,000 square foot, 4-story hotel facility ("together with the Land, the "Facility"), which Facility will be developed and operated by the Company as a franchised Courtyard by Marriott (or similar nationally recognized hotel flag), all under a lease or sublease from the Agency, all as more fully described in the Application; and

WHEREAS, on March 25, 2014, the Agency adopted a resolution (the "Inducement Resolution") (1) accepting the Application of the Company with respect to the Project in a form acceptable to the Agency, and (2) authorizing the Agency to hold the Public Hearing (as defined below), and

WHEREAS, pursuant to General Municipal Law Section 859-a, on April 21, 2014, at 5:30 p.m., in the Mayor's Reception Room, Yonkers City Hall, 40 South Broadway, Yonkers, New York 10701, the Agency held a public hearing with respect to the Project and the proposed financial assistance being contemplated by the Agency (the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A copy of the Minutes of the Public Hearing along with the Notice of Public Hearing published and forwarded to the affected taxing jurisdictions thirty (30) days prior to said Public Hearing are attached hereto as Exhibit A; and

WHEREAS, pursuant to the Inducement Resolution, the officers, employees and agents of the Agency have negotiated with the Company the terms of a proposed Project Agreement (the "Project Agreement"), Company Lease Agreement (the "Company Lease Agreement"), Agency Sublease Agreement (the "Sublease Agreement"), Letter for Exemption from Sales Tax (the "Sales Tax Letter"), Payment in Lieu of Taxes Agreement (the "PILOT Agreement") and PILOT Agreement Mortgage (the "PILOT Mortgage"), pursuant to which, inter alia, the Agency will designate the Company as its agent for the purpose of acquiring, constructing and equipping the Project; and

WHEREAS, the Project Agreement, Company Lease Agreement, Agency Sublease Agreement, PILOT Agreement, PILOT Mortgage and related documents will be presented to President/Chief Executive Officer for execution upon approval of this resolution; and

WHEREAS, the Agency constitutes a "State Agency" and an "Involved Agency" under and pursuant to Article 8 of the Environmental Conservation Law and the regulations of the Department of Environmental Conservation of the State of New York thereunder (collectively, "SEQRA"); and

WHEREAS, the acquisition, construction, equipping, leasing and operation of the Facility is an "Action" under SEQRA; and

WHEREAS, in connection with an application for a zoning text amendment to section 43-74. D (5)(J)2 of the Yonkers Zoning ordinance relating to the Project, by notice dated April 2, 2014, the City of Yonkers City Council (the "City Council" or the "Lead Agency") gave notice to the Agency that, unless timely written objections are received by the City Council, the City Council intended to act as lead agency to conduct a coordinated review under SEQRA (the "Coordinated Review") of the actions relating to such proposed zoning text amendment; and

WHEREAS, the "action" which was the subject of the Coordinated Review (the "Proposed Action") included the actions which constitute the Project as hereinabove described; and

WHEREAS, the Agency consented to the designation of the City Council as lead agency in respect of the Coordinated Review of the Proposed Action under SEQRA; and

WHEREAS, the City Council coordinated review of the Action, and declared itself "Lead Agency" for purposes of review of the Proposed Action under SEQRA; and

WHEREAS, the Agency participated in the Coordinated Review of the Proposed Action as an Involved Agency; and

WHEREAS, on June 24, 2014, after consideration of the Proposed Action and review of a Short Environmental Assessment Form (the “EAF”) and the criteria set forth in Section 617.7 of 6 NYCRR Part 617 of the SEQRA regulations, the Lead Agency issued a negative declaration under SEQRA and found that the Proposed Action will have no adverse impact on the environment (the “Lead Agency Determination”); and

WHEREAS, the Lead Agency Determination is binding upon the Agency pursuant to 6 NYCRR §617.6(b)(3)(iii); and

WHEREAS, as an Involved Agency, the Agency must make its own findings under SEQRA prior to funding, undertaking, or approving the Project; and

WHEREAS, the Agency has reviewed the EAF and the documents incorporated by reference therein, and the Lead Agency Determination, as well as such other documents as the Agency felt it necessary or appropriate to examine to adequately review the Proposed Action; and

WHEREAS, the Agency concurs in the Lead Agency Determination.

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows (collectively, this “Resolution”):

Section 1. Based upon the Environmental Assessment Form completed by the Company and reviewed by the Agency and the Lead Agency, and other representations and information furnished by the Company regarding the Proposed Action, the Agency: (a) concurs with the Lead Agency that the Proposed Action is an “unlisted” action, as that term is defined under SEQRA; (b) finds that an environmental review of the Proposed Action pursuant to SEQRA was conducted by the Lead Agency, and that on June 24, 2014, a negative declaration for purposes of SEQRA was adopted by the Lead Agency, which negative declaration is attached hereto as Exhibit B; and (c) concurs with the findings of the Lead Agency as set forth in Exhibit B, adopts said findings as its own, and as of the date of this resolution determines that the Proposed Action will not have a “significant effect” on the environment. The Agency finds that the requirements of 6 NYCRR Part 617 have been met.

Section 2. The Agency hereby finds and determines that the Project constitutes a “tourism destination” project as defined in Section 862(2)(a) of the Act.

Section 3. Subject to the Company executing the Project Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate

such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf.

Section 4. Based upon the representation and warranties made by the Company in its application for financial assistance, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount up to \$8,000,000, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed \$670,000. The Agency agrees to consider any requests by the Company for increase to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services.

Section 5. The Chairman, Vice Chairman, President/Chief Executive Officer and/or the Chief Fiscal Officer of the Agency (each an "Authorized Person") are hereby authorized, on behalf of the Agency, to execute and deliver the Project Agreement, the Company Lease Agreement, the Sublease Agreement, the PILOT Agreement, the PILOT Mortgage and related documents with such changes as shall be approved by the Authorized Person upon execution.

Section 6. The Authorized Persons are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any Lender identified by the Company (the "Lender") up to a maximum principal amount necessary to (i) undertake the Project, (ii) acquire, construct, furnish and equip the Facility, and/or (iii) finance or refinance the purchase of equipment and other personal property and related transactional costs (the "Mortgage Instruments", and together with the Project Agreement, the Company Lease Agreement, the Sublease Agreement, the Sales Tax Letter, the PILOT Agreement, and the PILOT Mortgage, collectively, the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Authorized Person shall approve, the execution thereof by the Authorized Person to constitute conclusive evidence of such approval; provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 7. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such 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 officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency

Section 8. The terms and conditions of subdivision 3 of Section 875 of the General Municipal Law are hereby incorporated herein and made a part of this Resolution.

Section 9. This Resolution shall take effect immediately.

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

	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Absent</i>
Mike Spano	[ ✓ ]	[ ]	[ ]	[ ]
Martin Ball, Sr.	[ ✓ ]	[ ]	[ ]	[ ]
Susan Gerry	[ ✓ ]	[ ]	[ ]	[ ]
Joy Carden	[ ✓ ]	[ ]	[ ]	[ ]
Cecile D. Singer	[ ✓ ]	[ ]	[ ]	[ ]
Peter Kischak	[ ✓ ]	[ ]	[ ]	[ ]
Robert Maccariello	[ ]	[ * ]	[ ]	[ ]

The Resolutions were thereupon duly adopted.

**SECRETARY'S CERTIFICATION**

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

I, the undersigned, Secretary of the City of Yonkers Industrial Development Agency DO HEREBY CERTIFY:

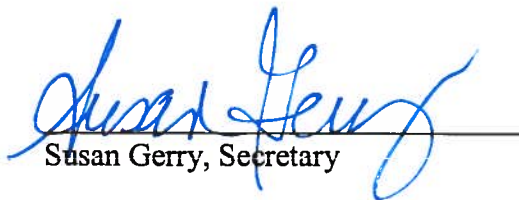
That I have compared the annexed extract of minutes of the meeting of the City of Yonkers Industrial Development Agency (the "Agency"), held on November 19 , 2014, including the resolution contained therein regarding the final authorization of a proposed project for the benefit of Norwich Yonkers LLC, to be located at 5 Executive Boulevard, Yonkers, New York, 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 insofar as the same related to the subject matters therein referred to.

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

I FURTHER CERTIFY, that 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 modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this 19 day of November, 2014.

  
Susan Gerry, Secretary

[SEAL]