

Tompkins County Industrial Development Agency

Administration provided by  **TCAD**

TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY BOARD OF DIRECTORS MEETING

• Wednesday, November 13, 2019 • 2:30 PM
Legislative Chambers
121 E. Court Street, Ithaca NY

AGENDA

1. CALL TO ORDER
2. PRIVILEGE OF THE FLOOR
3. ADDITIONS TO AGENDA
4. BUSINESS Page
 - Old Business
 - 327 W. Seneca Street (Visum Development) – Final Approval
Authorizing Resolution 2
Public Hearing Minutes (*to be distributed at meeting*)
 - Hotel Syracuse, LLC (Ithaca Hilton Garden Inn) – Final Approval
Authorizing Resolution 9
Public Hearing Minutes (*to be distributed at meeting*)
 - New Business
 - 2020 Memorandum of Understanding with TCAD – Approval 16
 - Local Labor Report – Update
 - Uses of Fund Balance – Informational 18
5. CHAIR’S REPORT
6. STAFF REPORT
7. APPROVAL OF MEETING MINUTES – October 11, 2019 19
8. ADJOURNMENT

RESOLUTION

(Visum Development Group, LLC Project)

A regular meeting of the Tompkins County Industrial Development Agency was convened in public session on Wednesday, November 13, 2019, at 2:30 p.m., local time, at 121 E. Court Street, Ithaca, New York 14850.

The meeting was duly called to order by the Chair, with the following members being:

PRESENT:

ABSENT:

ALSO PRESENT:

On motion duly made and seconded, the following resolution was placed before the members of the Tompkins County Industrial Development Agency:

RESOLUTION OF THE TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY WITH RESPECT TO THE PROJECT (AS DEFINED BELOW), (ii) ACKNOWLEDGING AND RATIFYING THE NEGATIVE DECLARATION ISSUED BY THE CITY OF IHTACA PLANNING BOARD (AS DEFINED BELOW) PURSUANT TO ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW AND 6 N.Y.C.R.R. PART 617 IN CONNECTION WITH THE PROJECT (AS DESCRIBED BELOW); (iii) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF AN AGENT AND FINANCIAL ASSISTANCE AND PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, TAX AGREEMENT AND RELATED DOCUMENTS; (iv) DESCRIBING AND AUTHORIZING THE FINANCIAL ASSISTANCE TO BE PROVIDED BY THE AGENCY TO THE COMPANY IN THE FORM OF (a) A SALES AND USE TAX EXEPTION, (b) A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH THE TAX AGREEMENT, AND (c) A PARTIAL EXEMPTION FROM MORTGAGE RECORDING TAXES IMPOSED ON THE FINANCING RELATED TO THE PROJECT; AND (v) AUTHORIZING THE EXECUTION AND DELIVERY OF A MORTGAGE AND RELATED DOCUMENTS.

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York (the "State"), duly enacted into law as Chapter 1030 of the Laws of 1969 of the State, as amended, and Chapter 535 of the Laws of 1971 of the State as amended and codified as Section 895-b of the General Municipal Law (collectively, the "Act"), the **TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency") was created with the authority and power to acquire, construct, renovate, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction or renovation, which shall be suitable for manufacturing, warehousing, research, commercial or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, **VISUM DEVELOPMENT GROUP, LLC**, for itself or on behalf of an entity formed or to be formed by it or on its behalf (the "Company"), previously submitted an application (as the same may be modified or supplemented from time to time, the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold interest in a certain vacant lot located at 327 West Seneca Street, in the City of Ithaca, New York, being more particularly identified as tax map number 71.-2-2.1 (the "Land"); (ii) the acquisition, construction and equipping on the Land of a three-story twelve-unit apartment building consisting of six (6) efficiency units (containing approximately 449-458 square feet) and six (6) two-bed/one-bath units (containing approximately 768-774 square feet) with bicycle parking and other amenities in conformance with B-2nd zoning (the "Improvements"); and (iii) the acquisition and installation in and around the Improvements of certain items of machinery, equipment and other items of tangible personal use (the "Equipment"; and, collectively with the Land and the Improvements, the "Facility"); and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the Financial Assistance (as such term is defined below) that the Agency is contemplating with respect to the Project; and

WHEREAS, it is contemplated that the Agency will (i) negotiate and enter into a financial assistance and project agreement (the "Project Agreement"), a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement"), a payment-in-lieu-of-tax agreement (the "Tax Agreement") and related documents with the Company, (ii) title to or a leasehold interest in, the Land, the Improvements, the Equipment and the personal property constituting the Project (once the Lease Agreement, the Leaseback Agreement and the Tax Agreement have been negotiated), and (iii) provide financial assistance to the Company in the form of (a) an exemption from sales and use tax for the purchase or rentals of goods and services in connection with the Project, (b) a real property tax abatement structured through the Tax Agreement, and (c) an exemption from mortgage recording taxes imposed on the financing related to the Project by the State (but not as to those taxes imposed on the financing related to the Project by Tompkins County, New York) ((a) through (c) are hereinafter collectively referred to as the "Financial Assistance"); and

WHEREAS, on October 11, 2019, the Agency, by duly approved motion, accepted the Application and directed that a public hearing be held; and

WHEREAS, pursuant to Section 859-a of the Act, on Friday, November 8, 2019, at 11:00 a.m., local time, at the Tompkins County Legislative Chambers at 121 East Court Street, Ithaca, New York 14850, 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; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, the City of Ithaca Planning Board (the "Planning Board"), acting as "lead agency" (as such quoted term is defined under SEQRA), classified the Project as a "Unlisted" action (as such quoted term is defined under SEQRA), conducted a coordinated review of the Project and issued a "negative declaration" (as such quoted term is defined under SEQRA) with respect to the Project; and

WHEREAS, it is in the interest of the Agency to provide the Financial Assistance in order to assist the Company in providing long-term affordable housing; and

WHEREAS, the Project Agreement, the Lease Agreement, the Leaseback Agreement, the Tax Agreement and related documents are being negotiated and will be presented to the Agency for execution upon approval of this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Company has presented the Application in a form acceptable to the Agency. Based upon representations made by the Company to the Agency in the Application, the Agency hereby finds and determines that:

A. By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

B. The Agency has the authority to take the actions contemplated herein under the Act; and

C. The action to be taken by the Agency will induce the Company to develop the Project in Tompkins County, New York, and otherwise further the purposes of the Agency as set

forth in the Act; and

D. The Project will not result in the removal of a civic, commercial, industrial or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State to another area of the State or result in the abandonment of one (1) or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

E. The Project involves a "Unlisted" action and the City of Ithaca Planning Board (the "Planning Board"), acting as lead agency and having undertaken a coordinated review, issued a negative declaration with respect to the Project on September 25, 2018 (the "Negative Declaration"); the Agency acknowledges the "hard look" taken by the Planning Board with respect to the Project and hereby ratifies the Negative Declaration issued by the Planning Board. The Agency further determines that all of provisions of SEQRA that are required to be complied with as a condition precedent to the approval of the Financial Assistance contemplated by the Agency with respect to the Project have been satisfied.

Section 2. The Public Hearing held by the Agency on November 8, 2019, concerning the Project and the Financial Assistance, was duly held in accordance with the Act, including, but not limited to, the giving of at least ten (10) days published notice of the Public Hearing, affording interested parties a reasonable opportunity, both orally and in writing, to present their views with respect to the Project.

Section 3. The Agency is hereby authorized to provide to the Company the Financial Assistance in the form of (a) an exemption from sales and use tax for the purchase or rentals of goods and services in connection with the Project, (b) a real property tax abatement structured through the Tax Agreement, and (c) an exemption from mortgage recording taxes imposed on the financing related to the Project by the State (but not as to those taxes imposed on the financing related to the Project by Tompkins County, New York).

Section 4. Based upon representations and warranties made by the Company in the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project, that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$620,000**, which result in New York State and local sales and use tax exemption benefits ("Sales and Use Tax Exemption Benefits") not to exceed **\$49,600**. 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. Pursuant to Section 875(3) of the New York General Municipal Law, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or

any other party authorized to make purchases for the benefit of the Project, any Sales and Use Tax Exemption Benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the Sales and Use Tax Exemption Benefits; (ii) the Sales and Use Tax Exemption Benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the Sales and Use Tax Exemption Benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the Sales and Use Tax Exemption Benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project.

As a condition precedent to receiving Sales and Use Tax Exemption Benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 4. Subject to the Company executing the Agency Documents and the delivery to the Agency of a binder, certificate or other evidence of a liability insurance policy for the Facility satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the undertaking of the Project and hereby appoints the Company as the true and lawful agent of the Agency, pursuant to the provisions of the Agency Documents: (i) to construct, reconstruct, renovate, refurbish and equip the Facility; (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; *provided, however*, the Company's status as agent of the Agency and related sales tax exemption letter shall expire on **December 31, 2021** (unless extended for good cause by the Administrative Director or other authorized representative of the Agency).

Section 5. The Chair, Vice Chair and/or Administrative Director of the Agency is hereby authorized, on behalf of the Agency, to negotiate and enter into (A) the Project Agreement, (B) the Lease Agreement, pursuant to which the Company leases the Project to the Agency, (C) the related Leaseback Agreement, pursuant to which the Agency leases its interest in the Project back to the Company, and (D) the Tax Agreement, *provided, that* (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) the terms of the Tax Agreement are consistent with the Agency's Policy or the procedures for deviation have been complied with.

Section 6. The Chair, Vice Chair and/or Administrative Director of the Agency 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/financial institution identified by the Company (the "Lender") up to a maximum principal amount of \$1,500,000 to acquire, construct and/or and equip the Facility and/or finance or re-finance equipment and other personal property and related transactional costs (hereinafter, with the Lease Agreement, Leaseback Agreement and Tax Agreement, collectively called 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 Chair, Vice Chair and/or Administrative Director of the Agency shall approve, the execution thereof by the Chair, Vice Chair and/or Administrative Director of the Agency 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 office, 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. All actions heretofore undertaken by the Agency with respect to the foregoing are hereby ratified and approved.

Section 9. These Resolutions shall take effect immediately.

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

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Rich John	[]	[]	[]	[]
Martha Robertson	[]	[]	[]	[]
Jennifer Tavares	[]	[]	[]	[]
Mike Sigler	[]	[]	[]	[]
Leslyn McBean-Clairborne	[]	[]	[]	[]
John Guttridge	[]	[]	[]	[]
Laura Lewis	[]	[]	[]	[]

The Resolution was thereupon duly adopted.

SECRETARY'S CERTIFICATION
(Visum Development Group, LLC Project)

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

I, the undersigned Secretary of the Tompkins County Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Tompkins County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on November 13, 2019, with the original thereof on file in the Agency's 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 the 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 Directors 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 ____ day of November, 2019.

Secretary

[SEAL]

RESOLUTION
(Hotel Syracuse, LLC Project)

A regular meeting of the Tompkins County Industrial Development Agency was convened in public session on Wednesday, November 13, 2019, at 2:30 p.m., local time, at 121 East Court Street, Ithaca, New York 14850.

The meeting was duly called to order by the Chair, with the following members being:

PRESENT:

ABSENT:

ALSO PRESENT:

On motion duly made and seconded, the following resolution was placed before the members of the Tompkins County Industrial Development Agency:

RESOLUTION OF THE TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) ACCEPTING AN APPLICATION FROM HOTEL SYRACUSE, LLC (THE "COMPANY") WITH RESPECT TO A CERTAIN PROJECT (DESCRIBED BELOW), (ii) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY ON NOVEMBER 8, 2019, WITH RESPECT TO THE COMPANY; (iii) APPOINTING THE COMPANY AS AGENT OF THE AGENCY TO UNDERTAKE THE PROJECT, (iv) MAKING A DETERMINATION PURSUANT TO ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW AND 6 N.Y.C.R.R. PART 617 IN CONNECTION WITH THE PROJECT, (v) AUTHORIZING FINANCIAL ASSISTANCE FOR THE BENEFIT OF THE COMPANY IN THE FORM OF A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE PROJECT, (vi) AUTHORIZING THE EXECUTION AND DELIVERY BY THE AGENCY OF A PROJECT AGREEMENT, NYS FORM ST-60, BILL OF SALE AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York (the "State"), duly enacted into law as Chapter 1030 of the Laws of 1969 of the State, as

amended, and Chapter 535 of the Laws of 1971 of the State as amended and codified as Section 895-b of the General Municipal Law (collectively, the "Act"), the **TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency") was created with the authority and power to acquire, construct, renovate, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction or renovation, which shall be suitable for manufacturing, warehousing, research, commercial or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, **HOTEL SYRACUSE, LLC** (the "Company"), has submitted an application (as the same may be modified or supplemented from time to time, the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in certain property located at 130 East Seneca Street, City of Ithaca, Tompkins County, New York (the "Land") and the existing approximately 102,833 square-foot building located thereon, consisting principally of a Hilton Garden Inn Hotel and a Class A Office building (the "Existing Improvements"); (ii) the reconstruction, renovation and equipping of approximately 70,000 square feet of the Existing Improvements to bring the Hilton Garden Inn Hotel up to Hilton's 2020 standards by renovating the hotel rooms, hallways and lobby (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the Financial Assistance (as such term is defined below) that the Agency is contemplating with respect to the Project; and

WHEREAS, it is contemplated that the Agency will (i) negotiate and enter into a certain project agreement, pursuant to which the Agency will appoint the Company as its agent for the purpose of undertaking the Project (the "Project Agreement"), and (ii) provide financial assistance to the Company in the form of a sales and use tax exemption for purchases and rentals related to the renovation of the Facility and the acquisition and installation and equipping of the Equipment (the "Financial Assistance"); and

WHEREAS, pursuant to Section 859-a of the Act, on Friday, November 8, 2019, at 11:00 a.m., local time, in the Tompkins County Legislative Chambers, 121 East Court Street, Ithaca, New York, 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 Notice of Public Hearing published in *The Ithaca Journal*, the affidavit of publication of such newspaper, and Minutes of the Public Hearing are attached hereto as **Exhibit A**; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, the Company has represented to the Agency that the Project is likely to attract a significant number of visitors from outside the economic development region (as established by Section 230 of the New York State Economic Development Law), and therefore the Project constitutes a "tourism destination" as defined in Section 862(2) of the Act.

WHEREAS, the Project Agreement, New York State Form ST-60, "IDA Appointment of Project Operator or Agent" ("NYS Form ST-60"), bill of sale ("Bill of Sale") and related documents (collectively, the "Agency Documents") with respect to the Project are being negotiated and will be presented to the Administrative Director, Chair and/or Vice Chair of the Agency for execution upon approval of this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Company has presented the Application in a form acceptable to the Agency. Based upon representations made by the Company to the Agency in the Application, the Agency hereby finds and determines that:

A. By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

B. It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Project; and

C. The Agency has the authority to take the actions contemplated herein under the Act; and

D. The action to be taken by the Agency will induce the Company to develop the Project in Tompkins County, New York, and otherwise further the purposes of the Agency as set forth in the Act; and

E. The Project will not result in the removal of a civic, commercial, industrial or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State to another area of the State or result in the abandonment of one (1) or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants

in their respective industries; and

E. Pursuant to Section 862 of the Act, the Project constitutes a "retail" project. Based on representations made by the Company to the Agency, the Project is located near several tourist destinations, including, but not limited to, Cornell University, Ithaca College, Ithaca Commons, Tompkins-Cortland Community College and Buttermilk Falls State Park, which attract a significant number of visitors from outside the economic development region (as established by Section 230 of the New York State Economic Development Law), and the Facility will provide lodging services to these destinations, therefore, constituting a "tourism destination" as defined in Section 862(2) of the Act; and

F. Based upon the review by the Agency of the Application submitted by the Company with respect to the Project, the Agency finds that the proposed action constitutes a "Type II action" pursuant to 6 N.Y.C.R.R. § 617.5 and therefore is exempt from review under SEQRA.

Section 2. Based upon representations and warranties made by the Company in the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project, that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$1,324,000.00**, which result in New York State and local sales and use tax exemption benefits ("Sales and Use Tax Exemption Benefits") not to exceed **\$106,000.00**. 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 3. Pursuant to Section 875(3) of the New York General Municipal Law, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any Sales and Use Tax Exemption Benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the Sales and Use Tax Exemption Benefits; (ii) the Sales and Use Tax Exemption Benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the Sales and Use Tax Exemption Benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the Sales and Use Tax Exemption Benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project.

As a condition precedent to receiving Sales and Use Tax Exemption Benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to

recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 4. Subject to the Company executing the Agency Documents and the delivery to the Agency of a binder, certificate or other evidence of a liability insurance policy for the Facility satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the undertaking of the Project and hereby appoints the Company as the true and lawful agent of the Agency, pursuant to the provisions of the Agency Documents: (i) to construct, reconstruct, renovate, refurbish and equip the Facility; (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; *provided, however*, the Company's status as agent of the Agency and related sales tax exemption letter shall expire on **April 30, 2020** (unless extended for good cause by the Administrative Director or other authorized representative of the Agency).

Section 5. The Administrative Director, Chair and/or Vice Chair of the Agency are hereby authorized, on behalf of the Agency, to execute the Project Agreement, NYS Form ST-60, the Bill of Sale and related documents in connection with the Project for the purpose of providing the Company with the Financial Assistance.

Section 6. 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. All actions heretofore undertaken by the Agency with respect to the foregoing are hereby ratified and approved.

Section 9. These Resolutions shall take effect immediately.

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

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Rich John	[]	[]	[]	[]
Martha Robertson	[]	[]	[]	[]
Jennifer Tavares	[]	[]	[]	[]
Mike Sigler	[]	[]	[]	[]
Leslyn McBean-Clairborne	[]	[]	[]	[]
John Guttridge	[]	[]	[]	[]
Laura Lewis	[]	[]	[]	[]

The Resolution was thereupon duly adopted.

[Remainder of Page Intentionally Left Blank]

SECRETARY'S CERTIFICATION
(Hotel Syracuse, LLC Project)

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

I, the undersigned Secretary of the Tompkins County Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Tompkins County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on November 13, 2019, with the original thereof on file in the Agency's 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 the 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 Directors 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 ____ day of November, 2019.

Secretary

[SEAL]

**Memorandum of Understanding
Tompkins County Area Development, Inc. &
Tompkins County Industrial Development Agency**

AGREEMENT

AGREEMENT, made by and between Tompkins County Area Development, a not-for-profit corporation of the State of New York, having offices at 401 East State Street, Suite 402B, Ithaca, New York, 14850, hereinafter referred to as “TCAD”, and Tompkins County Industrial Development Agency, hereinafter referred to as “TCIDA”.

WITNESSETH

WHEREAS, TCAD, as the community's lead economic development agency, offers financial assistance, technical assistance and real estate development services. TCAD is responsible for creating and implementing the comprehensive economic development strategy for the county that provides leadership to create a supportive economic environment. TCAD provides oversight for studies related to infrastructure and other issues necessary to support economic development. TCAD administers a revolving loan program, the Tompkins County Development Corporation, and Tourism Capital Grant Program. TCAD will provide administrative management to TCIDA.

NOW, THEREFORE, in consideration of the agreements contained herein, the parties agree as follows:

1. The term of this agreement shall be from **January 1, 2020 through December 31, 2020**.
2. TCAD agrees to provide technical and administrative services as follows:
 - Organize meetings of the Board of Directors and Committees of the Board.
 - Staff and take minutes of meetings.
 - Facilitate live streaming of Board meetings and public hearings as outlined under NYS law.
 - Maintain IDA files and archives.
 - Distribute applications and supporting documents to the IDA.
 - Distribute the PILOT agreement and other documents and information to County Assessor, County Finance Department, and appropriate taxing authorities.
 - File proper forms (412a) with County Assessor relating to PILOT agreements and property tax abatements.
 - Comply with project public hearing and taxing authority notification requirements.
 - Respond to questions about projects.
 - Assist attorney with closings.
 - Comply with NYS Public Authority Accountability Act regulations including filing of annual reports and other required information. Ensure Board certifies reports.

- Compile information for annual audit, work with auditors in this regard, update information online as required by NYS, and keep IDA Board informed of process.
 - Create and maintain a web site as required by law.
 - Monitor legislation impacting the IDA.
 - Educate appropriate elected officials and their staff about the TCIDA's position on current or proposed legislation impacting IDAs and their projects.
 - Recommend and advise the Board concerning changes to applications, policies, and by-laws.
 - Educate board members on duties of public authorities.
 - Promote the availability of IDA incentives to potential applicants.
 - Meet with potential applicants to discuss IDA incentives, policies and procedures.
 - Prepare applicants for IDA meeting.
 - Create community benefit analysis to accompany each project application.
 - Create job and wage report and annually review with IDA Board.
 - Document and review with IDA Board all projects that fall short of performance goals.
 - Implement recapture policy as necessary.
 - Review PILOT payments to ensure accurate PILOT billing by taxing jurisdictions.
 - Periodically compare actual assessments with those projected at time of application to help guide future tax payment and abatement estimates.
 - Meet with current customers on a periodic basis to monitor status of projects.
3. TCIDA agrees to pay TCAD a sum of **\$444,829.00**. Payments shall be made quarterly upon submission of an invoice. This sum includes support of the County Business Energy Advisors program and support of the Countywide Water and Sewer Study Update.
 4. The parties also acknowledge that this sum is for the above referenced services and economic development services provided for Tompkins County. **See the attached work plan that outlines these services.**
 5. It is mutually agreed between the parties that an independent contractor relationship is hereby established under the terms and conditions of this Agreement.
 6. The provision of this agreement shall be construed under the laws of the State of New York.

IN WITNESS THEREOF, the parties hereto have executed this agreement as of the day and year first above written.

DATE: _____

 Larry Baum for TCAD

DATE: _____

 Rich John for TCIDA

TCAD initials ____

TCIDA initials ____

MEMORANDUM

November 7, 2019

TO: Tompkins County Industrial Development Agency Board of Directors
FROM: Russell E. Gaenzle, Esq.
RE: IDA/LDC Fund Balances

IDA's

IDA's are limited in how they can spend fund balances. State law prohibits IDA's from loaning or granting money for any purpose. That being said, it is permissible for IDA's to spend money on land and improvements, equipment, contractual obligations, etc. IDA's can also obviously pay staff, professionals and other similar expenses. In the event an IDA wants to assist a company economically (beyond tax abatements) this can be accomplished through a contractual arrangement whereby the IDA is party to a contract and agrees to make purchases of equipment and/or services (we have done this with a number of other IDA clients). Again, the IDA cannot simply give, grant or loan money; it has to be structured as a contractual obligation. We also have IDA clients that have purchased land for development with some very good success (for example, Orange County IDA has invested heavily in accelerator projects throughout Orange County; this has been highly successful and has made for some great press at a time when it seems all IDA press is negative).

My understanding is that Tompkins County reduces its annual TCAD payment in the event the IDA fund balance exceeds \$600,000. While \$600,000 is certainly a lot of money, my experience has been that most IDA's have significantly more money to re-invest into the community. Limiting the balance to \$600,000 would make the decision to invest in a company's project or to acquire land for redevelopment all that more difficult. Emmy's Organics (and arguably Ithaca Beers' recent issues) are two good examples of how the IDA could have assisted financially with its own fund balance if it desired to. Limiting the balance to \$600,000, in my view, may temper the boards' decision to consider such expenditures.

LDC's

LDC's have much more flexibility in how they can expend fund balances. Essentially, an LDC can spend its money on any of its corporate purposes. Because LDC's corporate purposes are typically very broad, LDC's have the ability to spend money for any economic development purpose.

**Tompkins County Industrial Development Agency
Board of Directors Meeting DRAFT Minutes
October 11, 2019
2:30 PM
Tompkins County Legislative Offices
121 E. Court Street, Ithaca, NY**

Present: Rich John, Jennifer Tavares, Martha Robertson, Leslyn McBean-Clairborne, Laura Lewis, Mike Sigler, John Guttridge

Staff Present: Heather McDaniel, Ina Arthur (TCAD), Russ Gaenzle (Harris Beach)

Guests: Rick Snyder (TC Finance), Anthony Cutaia (Rane Management), Todd Fox (Visum Development Group)

CALL TO ORDER

Rich John called the meeting of the **Tompkins County Industrial Development Agency** to order at 2:30 pm.

PRIVILEGE OF THE FLOOR

None.

ADDITIONS TO THE AGENDA

None.

NEW BUSINESS

Visum Development (327 W. Seneca Street)

Heather McDaniel described the project to the Board. This is a 12-unit affordable housing project. The developer has gone through the City's CIITAP process. They have requested a 10-year incentive that is based on financial need. A memo to that effect is in the packet. There is also a community benefit memo in the packet. Todd Fox of Visum Development addressed the Board. He stated that they are excited about the project. It is a great infill project for the City.

Martha Robertson mentioned that the project has received a \$200,000 grant from the Community Housing Development Fund. She is also happy to see the agreement with INHS to do the income qualifications. She asked about the lack of diversity policy for hiring because the City agreement shows they did agree to be part of the diversity consortium.

Heather McDaniel commented that the IDA's diversity policy has to do with projects that have employees on site. This project will not be creating jobs on site. It is a housing project.

Laura Lewis asked about the agreement with INHS to do income qualifying. She noted that it is for 5 years only. Todd Fox stated that the INHS agreement is 5 years with an option to renew. But the option

is open to use other entities. The project be required to provide affordable units for 49 years as a result of the Community Housing Development Fund agreement.

Leslyn McBean Clairborne commented on income qualifying – she does not want it to be too burdensome.

John Guttridge asked about the construction budget. How confident are you about the cost per square foot without identifying a contractor? Todd Fox stated they are very confident having done a larger high end project with costs similar to this project.

Martha Robertson asked about other companies that can do income qualification other than INHS. She is also curious about the taxable value that goes up 2% a year and another reference to this that has 4%. Heather commented that the 4% is a placeholder in the application. She and Jay Franklin have recently agreed that a 2% increase per year in assessments is what will be used in projections.

Rich John asked about energy efficiency. Are they thinking of using heat pumps? Todd Fox stated that they have used them in the past. Currently this is an all-electric project. If the budget will allow and if they are able to offer air conditioning, they will use heat pumps. They are working with the County's BEA program.

John Guttridge moved to accept the application as complete. Martha Robertson seconded the motion. The motion was approved 7-0.

John Guttridge moved to send the project to a public hearing. Leslyn McBean Clairborne seconded the motion. The motion was approved 7-0.

Hotel Syracuse, LLC (Hilton Garden Inn)

Heather McDaniel introduced Tony Cutaia of Rane Property Management. He is a representative of the new owners of the Hilton Garden Inn. This project is under an existing PILOT with the TCIDA. With new ownership in place, the hotel needs to make upgrades to the property in order to maintain the Hilton flag. They are applying for a sales tax exemption to help with the costs of the upgrade. This will include upgrades to the rooms, lobby, façade, front pavers and the outside of the building.

John Guttridge asked if lobby work was done recently. Yes, but this work was due to needed repairs. But this was not up to current Hilton standards. So part of the lobby will be redone. The rooms are the real need.

Martha Robertson asked about the HVAC system. Are they willing to look at heat pumps? She asked Heather McDaniel to provide information on the BEA program to this project.

Mike Sigler asked for clarification on the amount of exemption asked for. This is based on the costs of renovations that are subject to sales tax and is 8% of that cost.

Heather commented that since the incentive is more than \$100,000, this would require sending the project to a public hearing. Since the building is already under a PILOT agreement, any jobs created by the project will be counted under that portion of the project.

John Guttridge asked if they had considered joining the Diversity Consortium. Heather McDaniel commented that since the jobs are already accounted for under the PILOT project approved several years ago, she did not anticipate the Diversity Consortium requirements be required at this juncture.

Rich John asked about the use of local construction labor. The general contractor is out of the Buffalo NY region but they will be hiring local workers.

Jennifer Tavares commented that the new management team has been working with Challenge Industries in providing job opportunities for those with barriers to employment Tony Cutaia stated that the hotel management team now oversees the property management as well.

John Guttridge moved to accept the application as complete. Martha Robertson seconded the motion. The motion was approved 7-0.

John Guttridge moved to send the project to a public hearing. Martha Robertson seconded the motion. The motion was approved 7-0.

2019 Budget Update and 2020 Draft Budget Approval

Heather McDaniel presented an update on the 2019 Budget and the 2020 Draft TCIDA Budget. This draft budget is being presented and approved at this time to comply with the PAAA legislation.

Martha Robertson commented on the increase in administrative fees expected. These are projected based on anticipated closing dates for existing projects.

Laura Lewis asked for a clarification of the expenses. The administrative budget line includes the administrative services from TCAD, which also include support of the County's BEA program for a third year, and the Countywide water and sewer study update.

Martha Robertson moved to approve the 2020 Draft TCIDA Budget. Leslyn McBean Clairborne seconded the motion. The motion was approved 7-0.

TCAD 2020 Draft Work Plan Presentation

Heather McDaniel presented an early version of the 2020 TCAD Work Plan. She welcomed comments and feedback from the Board.

CHAIRS REPORT

None.

STAFF REPORT

Heather McDaniel commented that the work on Cayuga Ridge Nursing has been completed. She also reported that the Hilton Canopy Hotel is now open.

APPROVAL OF MEETING MINUTES

John Guttridge made a clarification on his comments during the September 11, 2019 Board meeting. These edits will be made to the minutes in question.

Martha Robertson moved to approve the draft minutes from the September 11, 2019 Board meeting with edits. Mike Sigler seconded the motion. The motion was approved 7-0.

ADJOURNMENT

The meeting was adjourned at 3:35 PM.