

City of Albany Industrial Development Agency

21 Lodge Street
Albany, New York 12207
Telephone: (518) 434-2532
Fax: (518) 434-9846

Tracy Metzger, *Chair*
Susan Pedo, *Vice Chair*
Darius Shahinfar, *Treasurer*
Lee Eck, *Secretary*
Dominick Calsolaro
Robert Schofield

Sarah Reginelli, *Chief Executive Officer*
Mark Opalka, *Chief Financial Officer*
William Kelly, *Agency Counsel*

To: Darius Shahinfar Cc: Robert Schofield Sarah Reginelli Date: March 9, 2018
Lee Eck
Susan Pedo
Tracy Metzger
Dominick Calsolaro
Mark Opalka
William Kelly
Joe Scott
Joe Landy
Andy Corcione
Alison Matthews

IDA FINANCE COMMITTEE AGENDA

A meeting of the Finance Committee of the City of Albany Industrial Development Agency will be held on Wednesday, March 14th at 12:15 PM at 21 Lodge Street, Albany, NY 12207 (Large Conference Room).

Roll Call

Reading of Minutes of the Finance Committee Meeting of February 7, 2018

Approval of Minutes of the Finance Committee Meeting of February 7, 2018

Unfinished Business

New Business

- A. Albany Mid-Town Hotel, LLC
- B. 67 Howard Street LLC
- C. 144 State Street, LLC

Other Business

- A. Correspondence

Adjournment

The next regularly scheduled Finance Committee meeting will be held Wednesday, April 11, 2018 at 21 Lodge Street, Albany, NY. Please check the website www.albanyida.com for updated meeting information.

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IDA MINUTES OF FINANCE COMMITTEE MEETING

Wednesday, February 7, 2018

Attending: Darius Shahinfar, Tracy Metzger, Lee Eck and Dominick Calsolaro

Absent: Susan Pedo

Also Present: Joseph Scott, Nadene Zeigler, Bill Kelly, Sarah Reginelli, Mark Opalka, Joseph Landy, Andy Corcione, Mike Bohne, Ashley Mohl and Chantel Burnash

Chair Darius Shahinfar called the Finance Committee meeting of the IDA to order at 12:58 PM.

Roll Call

Chair Darius Shahinfar reported that all Committee members were present, except for Susan Pedo.

Reading of Minutes of the January 10, 2018 Finance Committee Meeting

Since the minutes of the previous meeting had been distributed to Committee members in advance for review, Chair Darius Shahinfar made a proposal to dispense with the reading of the minutes.

Approval of Minutes of the January 10, 2018 Finance Committee Meeting

Chair Darius Shahinfar proposed to approve the minutes of the Finance Committee meeting of January 10, 2018. Tracy Metzger moved, seconded by Lee Eck, to accept the minutes as presented. The Members voted unanimously in favor and the motion carried.

Unfinished Business

363 Ontario St LLC (Playdium) – Possible Positive/Negative Recommendation for Approving Resolutions

Staff discussed the application at 363 Ontario Street, which has been also been discussed at the previous two Finance Committee meetings. Staff informed the Committee that the Applicant has amended their application to 85 construction jobs, instead of 100 construction jobs. Staff informed the Committee that they reached out to the Office of the State Comptroller (OSC) and the Authorities Budget Office (ABO) for specific clarification of permanent, retained and construction job projections. Based on the ABO's clarification, the Committee agreed to remove retained jobs from the IDA's Evaluation and Assistance Framework Scoring Sheet for this project. The Committee discussed the Project's scoring within the IDA's Evaluation and Assistance Framework and that the Applicant has met the threshold of at least ten (10) community benefit metrics and is eligible to be considered for a deviation in financial assistance.

A motion to move the project to the next full Board meeting, with no recommendation was made by Dominick Calsolaro and seconded by Tracy Metzger. A vote being taken, the motion passed unanimously.

New Business

705 Broadway, LLC – Third Party Review

Staff informed the Committee that the full application for 705 Broadway, LLC has not been received however this project will need a third party review. Staff and Committee discussed the proposals for the third party review. The Committee asked Staff to further review the proposals to ensure the third party review is necessary.

After discussion, a motion to have Counsel prepare a resolution for authorization to contract with W-ZHA, LLC pending an application with 705 Broadway, LLC, to enter into scope of work, was made by Darius Shahinfar and seconded by Lee Eck. A vote being taken the motion passed unanimously.

Other Business

Park South Project Update

Staff gave an update on the Park South project. Staff informed the Committee that Bellini’s Counter occupies a portion of the ground level floor and two more tenants are expected to be announced in the coming weeks. Staff informed the Committee that residential tenancy has exceeded expectations and full resident occupancy is expected by year-end.

Executive Session

A motion to enter into executive session was made by Darius Shahinfar, seconded by Dominick Calsolaro to discuss pending or potential litigation. The Board entered into executive session at 1:50 p.m. Board members, Staff and Counsel remained in the room. No action was taken. The Board left executive session at 1:58 p.m. and returned to its regular session.

The Committee briefly discussed the settlement of the Hilton contract.

Staff advised the Committee that the internal audit with the OSC is still ongoing.

There being no further business, the meeting was adjourned at 2:05 PM.

Respectfully submitted,

Lee Eck, Secretary

Law Office of Debra J. Lambek PLLC

302 Washington Avenue Extension
Albany, New York 12203

Debra J. Lambek
Counsel
Phone: (518) 862-9133 Ext. 4225
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January 29, 2018

Ms. Sarah Reginelli
Chief Executive Officer
City of Albany Industrial Development Agency
21 Lodge Street
Albany, New York 12207

Re: City of Albany Industrial Development Agency
Albany Mid-Town Hotel, LLC Project

Dear Ms. Reginelli:

In connection with your letter to Albany Mid-Town Hotel, LLC of January 23, 2018, enclosed please find a Judgment Order and Stipulation of Settlement which was filed with the Albany County Clerk on August 10, 2017 ("Stipulation"). We are waiting on the Extension and Modification of the PILOT Agreement referenced at section 5 of the Stipulation. Thank you.

If you have any questions or comments, please do not hesitate to call.

Very truly yours,



Debra J. Lambek
Counsel

DJL\mml

Enc.

cc: Adam Lundin, Albany Midtown Hotel, LLC (Via Email to alundin@bblhospitality.com)

STATE OF NEW YORK
SUPREME COURT COUNTY OF ALBANY

ALBANY MID-TOWN HOTEL, LLC,

Petitioner,

-against-

CITY OF ALBANY INDUSTRIAL DEVELOPMENT
AGENCY, KEITH MCDONALD, COMMISSIONER,
DEPARTMENT OF ASSESSMENT OF THE CITY
OF ALBANY, NEW YORK, THE COUNTY OF
ALBANY, NEW YORK and the CITY SCHOOL
DISTRICT OF ALBANY, NEW YORK,

JUDGMENT /
ORDER AND STIPULATION
OF SETTLEMENT
Index No. 900399-17

Respondents.

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, that
the above-entitled special proceeding shall be settled and compromised in manner following:

1. Petitioner, Albany Mid-Town Hotel, LLC ("Mid-Town") shall pay the sum of
\$426,125 to the City of Albany ("City") within thirty (30) days of its receipt of a corrected
September, 2016 PILOT invoice in said amount, without interest or penalty.

2. Mid-Town shall pay the sum of \$275,628 to the City within thirty (30) days of
its receipt of a corrected January, 2017 PILOT invoice in said amount, without interest or
penalty.

3. In further consideration of the settlement and discontinuance of this proceeding
by Mid-Town, the respondent Commissioner of Assessments of the City of Albany shall
consent to a modification of the 2017 final assessment on petitioner's property at 62 New
Scotland Avenue, Albany, New York (Parcel No. 76.5-1-13.2) from \$22,379,500 to

\$15,500,000 by consent endorsement of petitioner's Form EA-524 filed on or before May 23, 2017.

4. In further consideration of settlement and discontinuance of the above-captioned proceeding, Mid-Town and the City of Albany Industrial Development Agency ("IDA") do mutually agree and covenant to enter into a PILOT Extension and Modification Agreement containing terms and conditions acceptable to the parties, and they further mutually agree to make diligent and earnest efforts to obtain all consents and/or approvals required for execution and implementation of said Extension Agreement from the IDA and, if applicable, the County of Albany ("County") and the City School District of the City of Albany ("School District").

5. Among other things, the Extension and Modification Agreement to be made between all necessary parties thereto, including Mid-Town, IDA and City, shall provide for a five (5) year extension of a certain PILOT Agreement dated as of November 1, 2006, and shall establish a valuation of the Project Facility (Mid-Town) of \$15,500,000 for the purpose of determining payments in lieu of taxes thereunder.

6. In further consideration for the settlement of this proceeding, Mid-Town shall, subject to performance of the mutual covenants and obligations set forth above, unconditionally release and discharge all co-respondents named herein from any claims, restraints, prohibitions or liabilities of whatever nature consequential to the allegations stated herein, and does consent, without other condition or qualification, to discontinue this proceeding on the merits, without costs or disbursements in favor of any party against another.

7. Nothing in this Stipulation, or in the contemplated PILOT Extension and Modification Agreement to be entered into by the parties, shall be construed as a restriction or

limitation on the City or its Department of Assessment in making such annual determination of Additional Assessed Value in any future year as they deem appropriate or necessary, upon due notice to Mid-Town given in the manner to be specified in the contemporaneous PILOT Extension and Modification Agreement to be made between the parties as herein provided. The Base Assessed Value established for Mid-Town in the original PILOT Agreement made between IDA and Mid-Town shall remain unchanged and unaffected by either this Stipulation or said Extension Agreement.

8. In the event that the extension and modification of the current PILOT Agreement between Mid-Town and IDA shall not occur prior to its expiration date of December 31, 2016, then the parties Mid-Town and City agree as follows:

- (a) Settlement of this special proceeding by this Court's Order shall, for purposes of this settlement, be deemed a disposition on the merits of an overvaluation claim, and the parties mutually agree to waive the three-year freeze provision of RPTL §727 and do agree to the following prospective tentative and final assessed values on Mid-Town's property:

2017 - \$15,500,000

2018 - \$15,500,000

2019 - \$15,500,000

2020 - \$15,500,000

2021 - \$15,500,000

- (b) In consideration for the foregoing agreed assessed values, Mid-Town expressly covenants and agrees to refrain from and forgo initiation of any administrative or judicial proceedings for review of its assessed value(s) during the years set forth in preceding section (a) so long as said assessed value does not exceed Fifteen Million Five Hundred Thousand Dollars (\$15,500,000).
- (c) Except as to the parties' mutual waiver of its three (3)-year period of limitation, RPTL §727's usual conditions and exceptions shall apply, and remain in full force and effect, and the City's Department of Assessment may make annual reviews and annual determinations of the appropriateness of adding additional assessed value to Mid-Town's

property as they deem appropriate, upon due written notice to Mid-Town of any such change(s).

9. Mid-Town expressly agrees to the unconditional release of all respondents herein named and served from any prior restraint(s) or prohibition(s) provided for in a certain Order to Show Cause signed and entered herein on January 26, 2017.

10. Any party to this proceeding may make further application to this Court, on notice to all other named parties, for any relief deemed necessary and appropriate to the facilitation or enforcement of this Stipulation.

11. The appearing attorneys set forth below have obtained full, actual and direct authorization from their respective clients to subscribe to the same.

12. The County and School District are agreed to be, for purposes of this Stipulation, interested but not necessary parties with respect thereto, and Mid-Town shall, by agreement, provide said parties with certified copies of this Stipulation and Order as soon as practicable after entry of same.

Dated: 6/29/17

CITY OF ALBANY and KEITH
MCDONALD, its COMMISSIONER OF
ASSESSMENTS

By: TB K
Trey Kingston, Asst. Corporation Counsel
City of Albany Law Department
City Hall
24 Eagle Street
Albany, New York 12204

Dated: July 10

ALBANY MID-TOWN HOTEL, LLC
By: [Signature]
David R. Murphy, of Counsel
E. Stewart Jones Hacker Murphy LLP
28 Second Street
Troy, New York 12180

Upon reading and filing the above Stipulation of Settlement,
NOW, upon due and considered deliberation, it is
SO ORDERED AND ADJUDGED

[Signature]
HON. KIMBERLY A. O'CONNOR, A.J.S.C.
Dated: August 10, 2017
Albany, New York

[Signature]
8-10-17 SB

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February 26, 2018

Tracy Metzger, Chair
City of Albany Industrial Development Agency
21 Lodge Street
Albany, New York 12207

Re: 67 Howard Street LLC ("Company")
with City of Albany Industrial Development Agency ("Agency")
Straight Lease Transaction for 67 Howard Street, City of Albany ("Project")

Dear Ms. Metzger:

The Company is in the process of refinancing its existing financing for the above Project. As a result of the existing PILOT Agreement from the Agency, we require the Agency execute the mortgage agreement in connection with the loan. We are not requesting any additional financial assistance from the Agency.

Please let me know what else you require in order to proceed. Thank you.

Very truly yours,



Debra J. Lambek
Counsel

DJL\mml

cc: A Joseph Scott, Esq. (Via Email to ascott@hodgsonruss.com)

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dlambek@columbiadev.com

February 26, 2018

Tracy Metzger, Chair
City of Albany Industrial Development Agency
21 Lodge Street
Albany, New York 12207

Re: 144 State Street LLC ("Company")
with City of Albany Industrial Development Agency ("Agency")
Straight Lease Transaction for 144 (aka 142) State Street, City of Albany ("Project")

Dear Ms. Metzger:

The Company is in the process of refinancing its existing financing for the above Project. As a result of the existing PILOT Agreement from the Agency, we require the Agency execute the mortgage agreement in connection with the loan. We are not requesting any additional financial assistance from the Agency.

Please let me know what else you require in order to proceed. Thank you.

Very truly yours,



Debra J. Lambek
Counsel

DJL\mml

cc: A Joseph Scott, Esq. (Via Email to ascott@hodgsonruss.com)