

Transcript Document No. 7

**Final Authorizing Resolution
Utica Harbor Lodging Group LLC Facility**

Date: February 5, 2025

At a meeting of the City of Utica Industrial Development Agency, Utica, New York (the "Agency"), held at Urban and Economic Development Conference Room, One Kennedy Plaza, Utica, New York on February 5, 2025, the following members of the Agency were:

PRESENT: Vin Gilroy
John Buffa
John Zegarelli

ALSO PRESENT: Jack Spaeth, Executive Director

ALSO PRESENT: Linda E. Romano, Esq. (Bond, Schoeneck & King)
(WEBEX) Laura Ruberto (Bond, Schoeneck & King)

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to acquisition of a leasehold interest in, and construction and equipping of, a certain industrial development facility more particularly described below (Utica Harbor Lodging Group LLC Facility) and the leasing of the facility to Utica Harbor Lodging Group LLC.

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

John Buffa voting aye
John Zegarelli voting aye

Vin Gilroy abstained from the vote and discussion

RESOLUTION AUTHORIZING THE AGENCY TO EXECUTE THE LEASE AGREEMENT, LEASEBACK AGREEMENT, PILOT AGREEMENT, ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT, LOAN DOCUMENTS AND RELATED DOCUMENTS AND AUTHORIZING FINANCIAL ASSISTANCE WITH RESPECT TO THE UTICA HARBOR LODGING GROUP LLC FACILITY LOCATED AT WELLS AVENUE, UTICA HARBOR POINT, IN THE CITY OF UTICA, ONEIDA COUNTY.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended and Chapter 710 of the Laws of 1981 of the State of New York (collectively, the "Act"), the Agency was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, Utica Harbor Lodging Group LLC, on behalf of itself and/or the principals of Utica Harbor Lodging Group LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") has applied to the Agency to enter into a lease-leaseback transaction in which the Agency will assist in the acquisition of parcels of land measuring 20± acres in the aggregate located at Wells Avenue, Utica Harbor Point, City of Utica, Oneida County, New York (collectively, the "Land") to undertake the following:

(A) (i) construction of residential apartment buildings containing a total of approximately 82 units, parking and storage for residents, fitness center and other common area amenities, an office for administration, together with all infrastructure to support the same (collectively, the "Residential Improvements"); and (ii) acquisition and installation of furniture, fixtures and equipment in the Residential Improvements (the "Residential Equipment"); all designed to attract residents that are currently either underserved by Utica's existing apartment stock or living outside the City and to fill a demonstrated need for market rate housing (the Residential Improvements and the Residential Equipment are referred to collectively as the "Residential Facility" and the acquisition, construction and equipping of the Residential Facility is referred to collectively as the "Residential Project"); and

(B) (i) construction of two extended stay hotels, each with approximately 100 rooms, together with all parking and infrastructure to support the same (collectively, the "Hotel Improvements"); (ii) acquisition and installation of furniture, fixtures and equipment in the Hotel Improvements (the "Hotel Equipment"), designed to cater to families and transient business as well as guests seeking a more upscale destination lodging experience (the Hotel Improvements and the Hotel Equipment are referred to collectively as the "Hotel Facility" and the acquisition, construction and equipping of the Hotel Facility is referred to collectively as the "Hotel Project")

the Land, the Residential Facility and the Hotel Facility are referred to collectively as the “Facility;” and the Residential Project and the Hotel Project are referred to collectively as the “Project, ” all of which are in furtherance of enhancing economic development in downtown Utica and specifically within the Harbor Point area; and

WHEREAS, the Company projects the Project will be constructed on the following timeline:

First hotel and access street (“Phase 1 Project”)	Commence May 1, 2025 Complete August 1, 2027
Second hotel (“Phase 2 Project”)	Commence August 1, 2026 Complete February 1, 2029
Residential Facility (“Phase 3 Project”)	Commence August 1, 2026 Complete February 1, 2029

WHEREAS, the Company will lease the Facility to the Agency pursuant to one or more Lease Agreements (collectively the “Lease Agreement”); and

WHEREAS, the Facility will be leased back to the Company (or an entity or entities to be formed on behalf of the Company) for its operation pursuant to one or more Leaseback Agreements by and between the Agency and the Company or the entity(ies) formed on behalf of the Company (collectively the “Leaseback Agreement”) and pursuant to the Act; and

WHEREAS, the Company intends to further sublease individual units comprising the Residential Facility to residential tenants to be identified from time to time (each a “Residential Sublessee” and collectively the “Residential Sublessees”); and

WHEREAS, the Company intends to finance a portion of the costs of the Facility by securing from one or more lenders to be identified one or more loans in the estimated principal aggregate sum of \$35,000,000.00, to be secured by one or more mortgages and other instruments said lender or lenders may require (collectively, the “Loan Documents”); and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from sales and use taxes on materials incorporated into the Facility, exemptions from mortgage recording taxes, and abatement of real property taxes for a period of twenty-four (24) years, during which time the Company will pay as PILOT Payments (a) during the construction period: an amount equal to taxes calculated using the assessed value and taxable status of each property as of March 1, 2024; and (b) after the issuance of a Certificate of Occupancy: fixed payments for twenty (20) years; and

WHEREAS, it is the intention of the parties that the fixed PILOT Payments shall begin on the first Exemption Year following the issuance of a Certificate of Occupancy for each phase; attached hereto as **Exhibit A** is an illustration of the proposed PILOT Payments assuming Certificates of Occupancy will be issued in accordance with the construction schedules projected in the Application and may be amended based on actual completion dates; and

WHEREAS, PILOT Payments will be allocated among the taxing jurisdictions in the same proportion as taxes would be allocated but not for the Agency’s involvement, unless the taxing jurisdictions enter into a written agreement assigning a different allocation; and

WHEREAS, the approximate value of the proposed Financial Assistance is estimated as follows:

	Hotel Phase 1	Hotel Phase 2	Residential Phase 3	Total
Sales Tax Exemption	\$717,500	\$535,938	\$890,313	\$2,143,751
Mortgage Recording Tax Exemption	\$87,000	\$65,250	\$108,750	\$261,000
Real Property Tax Exemption	\$1,594,759	\$2,238,684	\$7,244,993	\$11,078,436
Total	\$2,399,259	\$2,839,872	\$8,244,056	\$13,483,187

WHEREAS, the Agency by resolution duly adopted on January 15, 2025 (the “Resolution”) decided to proceed under the provisions of the Act to acquire a leasehold interest in the Facility and directed that a public hearing be held so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency, or the location or nature of the Facility, could be heard; and

WHEREAS, in the Resolution the Agency set forth the reasons it is deviating from its Policy; and

WHEREAS, on January 16, 2025 the Agency delivered notices to all affected taxing jurisdictions providing a copy of the Resolution, providing the location, date and time of the public hearing, and providing the location, date and time of this meeting so that each may have the opportunity to comment on the Financial Assistance and the Project; and

WHEREAS, in the Resolution the Agency made the finding that, based on representations made by the Company and the materials provided in the Application, the Residential Project will promote employment opportunities and prevent economic deterioration in the City of Utica; and

WHEREAS, the Agency determined by way of a Statement of Findings dated February 5, 2025 (the “Statement of Findings”) that the Facility is located in a “highly distressed area” as such term is defined in Section 854(18) of the General Municipal Law of the State of New York because the Facility is located in a designated Empire Development Zone as described in Article 18-B of the General Municipal Law, and the Project will preserve and increase the overall number of permanent, private sector jobs in the State; and

WHEREAS, in accordance with Section 862(c) of the General Municipal law of the State of New York, the Agency is submitting the Statement of Findings to the Mayor of the City of Utica so that he may sign a Certificate of Chief Executive Officer (the “Certificate of Chief Executive Officer”), confirming the proposed action of the Agency with respect to the Facility; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities which may arise in connection with the transaction contemplated by the lease of the land and the transfer of a leasehold interest in the Facility.

NOW, THEREFORE, BE IT RESOLVED by the City of Utica Industrial Development Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby finds and determines:

(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 Facility constitutes a “project”, as such term is defined in the Act; and

(c) The acquisition, construction and equipping of the Facility and the Financial Assistance thereof by the Agency, through the lease of the Facility to the Company by the Agency pursuant to a lease-leaseback transaction, will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the City of Utica and the people of the State of New York and improve their standard of living, and thereby serve the public purposes of the Act and the same is, therefore, approved; and

(d) The acquisition, construction and equipping of the Facility is reasonably necessary to induce the Company to maintain and expand its business operation in the State of New York; and

(e) Based upon representations of the Company and the Company's Counsel, the Facility conforms with the local zoning laws and planning regulations of the City of Utica and all regional and local land use plans for the area in which the Facility is located; and

(f) It is desirable and in the public interest for the Agency to acquire a leasehold interest in the Facility and lease the Facility to the Company; and

(g) The SEQRA findings adopted by the Agency on January 15, 2025, encompassed the actions to be undertaken by this resolution and no changes have been made since that time to the proposed action that would create new or increased adverse environmental impacts; and

(h) The Lease Agreement will be an effective instrument whereby the Company conveys a leasehold interest in the Facility to the Agency; and

(i) the Leaseback Agreement will be an effective instrument whereby the Agency leases the Facility back to the Company; and

(j) the Payment-In-Lieu-of-Tax Agreement by and between the Agency and the Company (the "PILOT Agreement"), in form satisfactory to the Chairman and Agency Counsel, will be an effective instrument whereby the Agency and the Company set forth the terms and conditions of their agreement regarding the Company's payments in lieu of real property taxes; and

(k) The Environmental Compliance and Indemnification Agreement (the "Environmental Compliance and Indemnification Agreement") by and between the Agency and the Company will be an effective instrument whereby the Company agrees to comply with all Environmental Laws (as defined therein) applicable to the Facility and will indemnify and hold harmless the Agency for all liability under all such Environmental Laws; and

(l) The Loan Documents will be effective instruments whereby the Agency and the Company grant a security interest in their respective interests in the Facility to one or more lenders.

Section 2. In consequence of the foregoing, and subject to receipt of the signed Certificate of Chief Executive Officer, the Agency hereby determines to: (i) acquire a leasehold interest in the Facility from the Company pursuant to the Lease Agreement; (ii) execute, deliver and perform the Lease Agreement; (iii) lease the Facility back to the Company pursuant to the Leaseback Agreement, (iv) execute, deliver and perform the Leaseback Agreement, (v) execute, deliver and perform the PILOT Agreement, (vi) execute, deliver and perform the Environmental Compliance and Indemnification Agreement; (vii) execute, deliver and perform the Loan Documents and (viii) deviate from Policy and authorize the Financial Assistance.

Section 3. The Agency is hereby authorized to acquire a leasehold interest in the real property described in Exhibit A to the Lease Agreement and the personal property described in Exhibit B to the Lease Agreement and to do all things necessary or appropriate for the accomplishment thereof, and all acts heretofore taken by the Agency with respect to such acquisition are hereby approved, ratified and confirmed.

Section 4. The form and substance of the Lease Agreement, the Leaseback Agreement, the PILOT Agreement and the Environmental Compliance and Indemnification Agreement (each in substantially the Agency's customary forms with any such changes that may be approved by Agency counsel and which, prior to the execution and delivery thereof, may be redated) are hereby approved. The form and substance of the Loan Documents (each containing the Agency's customary language and subject to the approval of Agency counsel) are hereby approved.

Section 5.

(a) The Chairman, Vice Chairman, Secretary or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Lease Agreement, the Leaseback Agreement, the PILOT Agreement, the Environmental Compliance and Indemnification Agreement and the Loan Documents, all in substantially the forms thereof approved at this meeting with such changes, variations, omissions and insertions as the Chairman, Vice Chairman, Secretary or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the "Closing Documents"). The execution thereof by the Chairman, Vice Chairman, or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chairman, Vice Chairman, Secretary or member of the Agency are further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Leaseback Agreement).

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 or provided for by the provisions of the Closing Documents, and to execute and deliver all such additional certificates, instruments and documents, 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 resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Closing Documents binding upon the Agency.

Section 7. This resolution shall take effect immediately.

EXHIBIT A-1

Hotel Phase 1 Project

Exemption Year	Taxable Status Date	School Tax Year	County Tax Year	City Tax Year	Fixed Payment
1	03/01/25	07/01/25 - 06/30/26	01/01/26 - 12/31/26	04/01/26 - 03/31/27	\$3,135.00
2	03/01/26	07/01/26 - 06/30/27	01/01/27 - 12/31/27	04/01/27 - 03/31/28	\$3,198.00
3	03/01/27	07/01/27 - 06/30/28	01/01/28 - 12/31/28	04/01/28 - 03/31/29	\$3,262.00
4	03/01/28	07/01/28 - 06/30/29	01/01/29 - 12/31/29	04/01/29 - 03/31/30	\$45,000.00
5	03/01/29	07/01/29 - 06/30/30	01/01/30 - 12/31/30	04/01/30 - 03/31/31	\$45,000.00
6	03/01/30	07/01/30 - 06/30/31	01/01/31 - 12/31/31	04/01/31 - 03/31/32	\$45,000.00
7	03/01/31	07/01/31 - 06/30/32	01/01/32 - 12/31/32	04/01/32 - 03/31/33	\$45,000.00
8	03/01/32	07/01/32 - 06/30/33	01/01/33 - 12/31/33	04/01/33 - 03/31/34	\$82,500.00
9	03/01/33	07/01/33 - 06/30/34	01/01/34 - 12/31/34	04/01/34 - 03/31/35	\$82,500.00
10	03/01/34	07/01/34 - 06/30/35	01/01/35 - 12/31/35	04/01/35 - 03/31/36	\$82,500.00
11	03/01/35	07/01/35 - 06/30/36	01/01/36 - 12/31/36	04/01/36 - 03/31/37	\$82,500.00
12	03/01/36	07/01/36 - 06/30/37	01/01/37 - 12/31/37	04/01/37 - 03/31/38	\$82,500.00
13	03/01/37	07/01/37 - 06/30/38	01/01/38 - 12/31/38	04/01/38 - 03/31/39	\$82,500.00
14	03/01/38	07/01/38 - 06/30/39	01/01/39 - 12/31/39	04/01/39 - 03/31/40	\$82,500.00
15	03/01/39	07/01/39 - 06/30/40	01/01/40 - 12/31/40	04/01/40 - 03/31/41	\$82,500.00
16	03/01/40	07/01/40 - 06/30/41	01/01/41 - 12/31/41	04/01/41 - 03/31/42	\$82,500.00
17	03/01/41	07/01/41 - 06/30/42	01/01/42 - 12/31/42	04/01/42 - 03/31/43	\$82,500.00
18	03/01/42	07/01/42 - 06/30/43	01/01/43 - 12/31/43	04/01/43 - 03/31/44	\$82,500.00
19	03/01/43	07/01/43 - 06/30/44	01/01/44 - 12/31/44	04/01/44 - 03/31/45	\$125,000.00
20	03/01/44	07/01/44 - 06/30/45	01/01/45 - 12/31/45	04/01/45 - 03/31/46	\$125,000.00
21	03/01/45	07/01/45 - 06/30/46	01/01/46 - 12/31/46	04/01/46 - 03/31/47	\$125,000.00
22	03/01/46	07/01/46 - 06/30/47	01/01/47 - 12/31/47	04/01/47 - 03/31/48	\$125,000.00
23	03/01/47	07/01/47 - 06/30/48	01/01/48 - 12/31/48	04/01/48 - 03/31/49	\$125,000.00
24	03/01/48	07/01/48 - 06/30/49	01/01/49 - 12/31/49	04/01/50 - 03/31/50	100% of taxes

(Shaded areas represent the projected construction period)

EXHIBIT A-2

Hotel Phase 2 Project

Exemption Year	Taxable Status Date	School Tax Year	County Tax Year	City Tax Year	Fixed Payment
1	03/01/25	07/01/25 - 06/30/26	01/01/26 – 12/31/26	04/01/26 - 03/31/27	0
2	03/01/26	07/01/26 - 06/30/27	01/01/27 – 12/31/27	04/01/27 - 03/31/28	0
3	03/01/27	07/01/27 - 06/30/28	01/01/28 – 12/31/28	04/01/28 - 03/31/29	0
4	03/01/28	07/01/28 - 06/30/29	01/01/29 – 12/31/29	04/01/29 - 03/31/30	0
5	03/01/29	07/01/29 - 06/30/30	01/01/30 – 12/31/30	04/01/30 - 03/31/31	\$45,000.00
6	03/01/30	07/01/30 - 06/30/31	01/01/31 – 12/31/31	04/01/31 - 03/31/32	\$45,000.00
7	03/01/31	07/01/31 - 06/30/32	01/01/32 – 12/31/32	04/01/32 - 03/31/33	\$45,000.00
8	03/01/32	07/01/32 - 06/30/33	01/01/33 – 12/31/33	04/01/33 - 03/31/34	\$45,000.00
9	03/01/33	07/01/33 - 06/30/34	01/01/34 – 12/31/34	04/01/34 - 03/31/35	\$82,500.00
10	03/01/34	07/01/34 - 06/30/35	01/01/35 – 12/31/35	04/01/35 - 03/31/36	\$82,500.00
11	03/01/35	07/01/35 - 06/30/36	01/01/36 – 12/31/36	04/01/36 - 03/31/37	\$82,500.00
12	03/01/36	07/01/36 - 06/30/37	01/01/37 – 12/31/37	04/01/37 - 03/31/38	\$82,500.00
13	03/01/37	07/01/37 - 06/30/38	01/01/38 – 12/31/38	04/01/38 - 03/31/39	\$82,500.00
14	03/01/38	07/01/38 - 06/30/39	01/01/39 – 12/31/39	04/01/39 - 03/31/40	\$82,500.00
15	03/01/39	07/01/39 - 06/30/40	01/01/40 – 12/31/40	04/01/40 - 03/31/41	\$82,500.00
16	03/01/40	07/01/40 - 06/30/41	01/01/41 – 12/31/41	04/01/41 - 03/31/42	\$82,500.00
17	03/01/41	07/01/41 - 06/30/42	01/01/42 – 12/31/42	04/01/42 - 03/31/43	\$82,500.00
18	03/01/42	07/01/42 - 06/30/43	01/01/43 – 12/31/43	04/01/43 - 03/31/44	\$82,500.00
19	03/01/43	07/01/43 - 06/30/44	01/01/44 – 12/31/44	04/01/44 - 03/31/45	\$82,500.00
20	03/01/44	07/01/44 - 06/30/45	01/01/45 – 12/31/45	04/01/45 - 03/31/46	\$125,000.00
21	03/01/45	07/01/45 - 06/30/46	01/01/46 – 12/31/46	04/01/46 - 03/31/47	\$125,000.00
22	03/01/46	07/01/46 - 06/30/47	01/01/47 – 12/31/47	04/01/47 - 03/31/48	\$125,000.00
23	03/01/47	07/01/47 - 06/30/48	01/01/48 – 12/31/48	04/01/48 - 03/31/49	\$125,000.00
24	03/01/48	07/01/48 - 06/30/49	01/01/49 – 12/31/49	04/01/50 - 03/31/50	\$125,000.00

(Shaded areas represent the projected construction period)

EXHIBIT A-3

Residential Phase 3 Project

Exemption Year	Taxable Status Date	School Tax Year	County Tax Year	City Tax Year	Fixed Payment
1	03/01/25	07/01/25 - 06/30/26	01/01/26 – 12/31/26	04/01/26 - 03/31/27	0
2	03/01/26	07/01/26 - 06/30/27	01/01/27 – 12/31/27	04/01/27 - 03/31/28	0
3	03/01/27	07/01/27 - 06/30/28	01/01/28 – 12/31/28	04/01/28 - 03/31/29	0
4	03/01/28	07/01/28 - 06/30/29	01/01/29 – 12/31/29	04/01/29 - 03/31/30	0
5	03/01/29	07/01/29 - 06/30/30	01/01/30 – 12/31/30	04/01/30 - 03/31/31	\$65,000.00
6	03/01/30	07/01/30 - 06/30/31	01/01/31 – 12/31/31	04/01/31 - 03/31/32	\$65,000.00
7	03/01/31	07/01/31 - 06/30/32	01/01/32 – 12/31/32	04/01/32 - 03/31/33	\$65,000.00
8	03/01/32	07/01/32 - 06/30/33	01/01/33 – 12/31/33	04/01/33 - 03/31/34	\$65,000.00
9	03/01/33	07/01/33 - 06/30/34	01/01/34 – 12/31/34	04/01/34 - 03/31/35	\$102,000.00
10	03/01/34	07/01/34 - 06/30/35	01/01/35 – 12/31/35	04/01/35 - 03/31/36	\$102,000.00
11	03/01/35	07/01/35 - 06/30/36	01/01/36 – 12/31/36	04/01/36 - 03/31/37	\$102,000.00
12	03/01/36	07/01/36 - 06/30/37	01/01/37 – 12/31/37	04/01/37 - 03/31/38	\$102,000.00
13	03/01/37	07/01/37 - 06/30/38	01/01/38 – 12/31/38	04/01/38 - 03/31/39	\$102,000.00
14	03/01/38	07/01/38 - 06/30/39	01/01/39 – 12/31/39	04/01/39 - 03/31/40	\$102,000.00
15	03/01/39	07/01/39 - 06/30/40	01/01/40 – 12/31/40	04/01/40 - 03/31/41	\$102,000.00
16	03/01/40	07/01/40 - 06/30/41	01/01/41 – 12/31/41	04/01/41 - 03/31/42	\$102,000.00
17	03/01/41	07/01/41 - 06/30/42	01/01/42 – 12/31/42	04/01/42 - 03/31/43	\$102,000.00
18	03/01/42	07/01/42 - 06/30/43	01/01/43 – 12/31/43	04/01/43 - 03/31/44	\$102,000.00
19	03/01/43	07/01/43 - 06/30/44	01/01/44 – 12/31/44	04/01/44 - 03/31/45	\$102,000.00
20	03/01/44	07/01/44 - 06/30/45	01/01/45 – 12/31/45	04/01/45 - 03/31/46	\$155,000.00
21	03/01/45	07/01/45 - 06/30/46	01/01/46 – 12/31/46	04/01/46 - 03/31/47	\$155,000.00
22	03/01/46	07/01/46 - 06/30/47	01/01/47 – 12/31/47	04/01/47 - 03/31/48	\$155,000.00
23	03/01/47	07/01/47 - 06/30/48	01/01/48 – 12/31/48	04/01/48 - 03/31/49	\$155,000.00
24	03/01/48	07/01/48 - 06/30/49	01/01/49 – 12/31/49	04/01/50 - 03/31/50	\$155,000.00

(Shaded areas represent the projected construction period)

