

Fortuna SEQR Resolution

A regular meeting of the Nassau County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency at 1550 Franklin Avenue, Suite 235, Mineola, Nassau County, New York, on January 30, 2014 at 5:00 p.m. local time.

The meeting was called to order by the Chairman, upon roll being called, the following members of the Agency were:

PRESENT:

Timothy Williams	Chairman
John Coumatos	Vice Chairman
Gary Weiss	Secretary
Christopher Fusco	Asst. Secretary

ABSENT:

John T. Ahern

THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Joseph J. Kearney	Executive Director
Joseph Foarile	Chief Financial Officer
Colleen Pereira	Administrative Director
Nicholas Terzulli	Director of Business Development
Edward Ambrosino, Esq.	General Counsel
Paul O'Brien, Esq.	Bond/Transaction Counsel

The attached resolution no. 2014-01 was offered by G. Weiss, seconded by J. Coumatos:

Resolution No. 2014-01

RESOLUTION FINDING THAT THE PROPOSED PROJECT OF
MM HOTEL MANAGEMENT LLC IS A TYPE II ACTION
UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT
AND NOT SUBJECT TO FURTHER REVIEW

WHEREAS, the Nassau County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act"), and Chapter 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, industrial and commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said project or to lease said projects with the obligation to purchase; and

WHEREAS, FORTUNA LI LLC, a limited liability company organized and existing under the laws of the State of New York (the "Applicant"), presented an application (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 374,616 square foot parcel of land located at 45 Seventh Avenue, Incorporated Village of Garden City, Town of Hempstead, County of Nassau, New York (Section: 34; Block: 65; Lot: 4) (collectively, the "Land"), (2) the undertaking of improvements in the existing buildings on the Land (collectively, the "Building"), and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment (collectively, the "Equipment"), all of the foregoing for use by the Applicant as a hotel facility (collectively, the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing in the form of potential exemptions or partial exemptions from sales and use taxes and mortgage recording taxes; and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Applicant or such other entity(ies) as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the Applicant, which is the owner of fee title to the Land and the Building, proposed that MM Hotel Management LLC (the "Company"), an affiliate of the

Applicant, be the sub-sublessee of the Project Facility and the Agency has approved such proposal; and

WHEREAS, pursuant to Article 8 of the New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, et. seq., as amended (the "Regulations") and collectively with the SEQR Act, "SEQRA", the Agency must consider whether the Project is an "action" that would require it to satisfy the requirements contained in SEQRA prior to making a final determination whether to undertake the Project; and

WHEREAS, pursuant to SEQRA, to aid the Agency in determining whether the Project is an "action" subject to SEQRA, the Applicant submitted to the Agency: (1) Applicant's Application for Financial Assistance to the Agency dated December 17, 2013; and (2) a Short Environmental Assessment Form for the Project dated December 17, 2013 (collectively the "Project Environmental Documents"); and

WHEREAS, 6 NYCRR 617.2(aj) of the Regulations states that a Type II action is an action or class of actions identified under 6 NYCRR 617.5; and

WHEREAS, 6 NYCRR 617.5(a) of the Regulations states that actions identified as Type II actions have been determined not to have a significant impact on the environment or are otherwise precluded from environmental review under the SEQR Act; and

WHEREAS, 6 NYCRR 617.5(c) of the Regulations states that Type II actions not subject to further review under SEQRA include "replacement, rehabilitation or reconstruction or a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, unless such action meets or exceeds any of the thresholds in section 617.4 of this Part"; and

WHEREAS, the Project consists of the renovation of an existing Building within its existing footprint and improvements to the interior of the Building to accommodate the installation of the Equipment.

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

Section 1. Based upon a thorough review and examination of the Project Environmental Documents and upon the Agency's knowledge of the area surrounding the Land and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings with respect to the Project:

- (A) The Project is a Type II action under SEQRA because it is "replacement, rehabilitation or reconstruction of a structure or

facility, in kind, on the same site, including upgrading buildings to meet building or fire codes” and does not meet or exceed any threshold for a Type I action.

(B) More specifically, the Project is a replacement, rehabilitation or reconstruction of a structure or facility, in kind, because it involves interior renovation and rehabilitation of an existing hotel with use and occupancy by a type of use permitted within the zoning district occupied by the Land. The Project will not expand the footprint of the Building nor increase or substantially alter environmental impacts associated with the Land.

Section 2. The Chairman, Executive Director and Administrative Director of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Applicant and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 3. This Resolution shall take effect immediately.

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

Timothy Williams	VOTING	Aye
John Coumatos	VOTING	Aye
Gary Weiss	VOTING	Aye
Christopher Fusco	VOTING	Nay
John T. Ahern	EXCUSED	

The foregoing Resolution was thereupon declared duly adopted.


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

I, the undersigned [~~Asst.~~] Secretary of the Nassau County Industrial Development Agency (the "Agency"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on January 30, 2014, with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 31st day of January, 2014.



[~~Asst.~~] Secretary
(SEAL)