

**SUPPLEMENT TO APPROVING RESOLUTION  
DUE DI MARE, INC. PROJECT**

A regular meeting of Rensselaer County Industrial Development Agency (the "Agency") was convened in public session in the Economic Development and Planning Office located on the fifth (5th) floor of the Rensselaer County Office Building located at 1600 Seventh Avenue in the City of Troy, Rensselaer County, New York on July 14, 2016 at 4:00 o'clock p.m., local time.

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

PRESENT:

John H. Clinton, Jr.	Chairman
Sandra Brown	Vice Chairman
Cynthia A. Henninger	Secretary/Treasurer
Ronald Bounds	Assistant Secretary/Treasurer
Douglas Baldrey	Member
James Church	Member
Michael Della Rocco	Member

ABSENT:

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Robin LaBrake	Assistant
Peter R. Kehoe, Esq.	Agency Counsel
Nadene Zeigler, Esq.	Special Counsel

The following resolution was offered by Michael Della Rocco, seconded by James Church, to wit:

Resolution No. 0716-05

RESOLUTION SUPPLEMENTING THE TERMS OF AN APPROVING RESOLUTION ADOPTED BY THE AGENCY ON JUNE 9, 2016 REGARDING A CERTAIN LEASE/LEASEBACK TRANSACTION FOR THE DUE DI MARE, INC. PROJECT.

WHEREAS, Rensselaer 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 1 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 128 of the 1974 Laws of New York, as amended, constituting Section 903-d 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 commercial, manufacturing and industrial 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 and install one or more “projects” (as defined in the Act) or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, Due Di Mare, Inc., a New York business corporation (the “Company”), has submitted an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately 1.34 acre parcel of land located at 1 Fourth Street in the City of Troy, Rensselaer County, New York (tax map number 101.45-3-1) (the “Land”), together with an approximately 35,000 square foot building located thereon (the “Existing Facility”), (2) the renovation of the Existing Facility and the construction of an approximately 15,000 square foot addition to the Existing Facility (the “Addition”, and collectively with the Existing Facility sometimes to be referred to as the “Facility”) and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property, including without limitation, tenant improvement and finish (the “Equipment”), all of the foregoing to constitute the upgrade of a hotel (the Land, the Facility and the Equipment being collectively referred to as 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, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Agency, by resolution duly adopted on June 9, 2016 (the “Approving Resolution”), indicated its approval of the Project and authorized the granting of the Financial Assistance with respect to the Project; and

WHEREAS, on June 19, 2015, the New York State Legislature (the “Legislature”) passed legislation providing for certain reforms relating to the granting and monitoring of financial assistance by industrial development agencies (“IDA”) for IDA projects (the “Reform Legislation”); and

WHEREAS, the Reform Legislation requires each IDA to, among other things, develop uniform criteria for the evaluation and selection for each category of projects for which financial assistance is provided; and

WHEREAS, the Agency, by resolution adopted on June 9, 2016, approved a set of uniform criteria for the evaluation and selection for each category of projects for which financial assistance is to be provided by the Agency (the “Uniform Criteria”); and

WHEREAS, the effective date of the Reform Legislation is June 15, 2016, and the Agency desires to supplement the Approving Resolution by adding evidence that the Agency has evaluated the Project by application of the Agency’s Uniform Criteria;

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

Section 1. The findings and determinations made by the Agency in Section 1 of the Approving Resolution are hereby supplemented by adding the following findings and determinations:

A. The Company will deliver to the Agency a supplement to the Application, which supplement is in a form and provides the information required under the Reform Legislation; and

B. The Project should receive the Financial Assistance in the form of exemption from sales tax and mortgage recording tax and real property tax abatement based on an evaluation of the Project based on the Agency's Uniform Criteria for the Evaluation of Projects Policy and the description of expected public benefits to occur as a result of this Project, as described on Exhibit A attached hereto and failure by the Company to meet the expected public benefits will result in a recapture event, as described on Exhibit B attached hereto.

Section 2. The Chairman or Vice Chairman, the Executive Director, the Agency staff, Agency Counsel and Special Counsel are hereby authorized to take any and all necessary steps to comply with the provisions of the Reform Legislation with respect to the Project. All action taken by the Executive Director, the Agency staff, Agency Counsel and Special Counsel with respect to the Project is hereby ratified and confirmed.

Section 3. Except as supplemented by this Resolution, the Approving Resolution shall remain in full force and effect and the terms and conditions thereof are hereby confirmed.

Section 4. 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:

John H. Clinton, Jr.	VOTING	YES
Sandra Brown	VOTING	YES
Cynthia A. Henninger	VOTING	YES
Ronald Bounds	VOTING	YES
Douglas Baldrey	VOTING	YES
James Church	VOTING	YES
Michael Della Rocco	VOTING	YES

The foregoing Resolution was thereupon declared duly adopted.


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

I, the undersigned (Assistant) Secretary of Rensselaer 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 July 14, 2016 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of the whole of such proceedings of the Agency and of such Resolution set forth therein 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 14<sup>th</sup> day of July, 2016.


---

(~~Assistant~~) Secretary

(SEAL)

## EXHIBIT A

### DESCRIPTION OF THE EXPECTED PUBLIC BENEFITS

In the discussions had between the Project Beneficiary and the Agency with respect to the Project Beneficiary's request for Financial Assistance from the Agency with respect to the Project, the Project Beneficiary has represented to the Agency that the Project is expected to provide the following benefits to the Agency and/or to the residents of Rensselaer County, New York (the "Public Benefits"):

Description of Benefit		Applicable to Project (indicate Yes or NO)		Expected Benefit
1.	Retention of existing jobs	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	4 full time equivalent existing jobs at the Project Facility.
2.	Creation of new permanent jobs	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	1 full time equivalent new jobs at the Project Facility within 2 years of the date hereof.
3.	Creation of construction employment for local labor (i.e., labor resident in the area comprised of labors, electricians, masons, carpenters, etc. in the tri-county area)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Average of 30 full time equivalent construction jobs at the Project Facility for local labor during an estimated construction period of 8 months, commencing within 2 months of the date hereof.
4.	Private sector investment	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$3,330,000 at the Project Facility within 4 years of the date hereof.
5.	Attract customers from outside the Economic Development Region	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Quantify by (% or number of customers, or % or amount of sales): \$500,000 within 3 years of the date hereof.

EXHIBIT B

DESCRIPTION OF THE RECAPTURE EVENTS

In connection with the Project and the granting of the Financial Assistance, the Agency and the Project Beneficiary agree that the following shall constitute recapture events with respect to the Project and the granting of the Financial Assistance:

1.	Failure of the Project Beneficiary to document to the satisfaction of the Agency the commencement of the acquisition, construction, reconstruction, renovation, and/or installation of the Project Facility within 18 months of the date hereof.
2.	Failure of the Project Beneficiary to document to the satisfaction of the Agency the completion of the acquisition, construction, reconstruction, renovation, and/or installation of the Project Facility within 2 years of the date hereof.
3.	Failure by the Project Beneficiary to document to the satisfaction of the Agency the retention of at least [80%] of the full time equivalent existing jobs at the Project Facility listed on <b>Exhibit A</b> attached hereto during the term of the Uniform Project Benefits Agreement.
4.	Failure by the Project Beneficiary to document to the satisfaction of the Agency the creation of at least [70%] of the average full time equivalent local labor construction jobs at the Project Facility listed on <b>Exhibit A</b> attached hereto during the construction period described on <b>Exhibit A</b> attached hereto.
5.	Failure by the Project Beneficiary to document to the satisfaction of the Agency the creation of at least [80%] of the full time equivalent new jobs at the Project Facility listed on <b>Exhibit A</b> attached hereto within 5 years of the date hereof.
6.	Failure by the Project Beneficiary to document to the satisfaction of the Agency that at least [80%] of the private sector investment described on <b>Exhibit A</b> attached hereto occurred with respect to the Project Facility within 4 years of the date hereof.
7.	Failure by the Project Beneficiary to document to the satisfaction of the Agency that the at least [65%] of the new revenues for local taxing jurisdictions described on <b>Exhibit A</b> attached hereto were created within 4 years of the date hereof.
8.	Failure by the Project Beneficiary to document to the satisfaction of the Agency that the Project resulted in the attraction of at least [50%] of the % or number of customers (or the % or amount of sales) from outside the Economic Development Region as described on <b>Exhibit A</b> attached hereto within 4 years of the date hereof.
9.	Failure by the Project Beneficiary to document to the satisfaction of the Agency that the Project provided the infrastructure necessary to support existing businesses or proposed businesses as described on <b>Exhibit A</b> attached hereto within 2 years of the date hereof.
10.	Failure by the Project Beneficiary to document to the satisfaction of the Agency that the Project provided the other Public Benefits described on <b>Exhibit A</b> attached hereto within the time frames assigned to such benefits.

11.	Liquidation of substantially all of the Project Beneficiary's operating assets at the Project Facility and/or cessation of substantially all of the Project Beneficiary's operations at the Project Facility.
12.	Relocation of all or substantially all of Project Beneficiary's operations at the Project Facility to another site, or the sale, lease or other disposition of all or substantially all of the Project Facility.
13.	Failure by the Project Beneficiary to comply with the annual reporting requirements or to provide the Agency with requested information.
14.	Sublease or assignment of all or part of the Project Facility in violation of any Closing Documents.
15.	A change in the use of the Project Facility, other than as described herein and other directly and indirectly related uses, in violation of any Closing Documents.