

A. Open Space Institute Capital (U574)

January 21, 2010

Authorization to Adopt Findings Pursuant to the State Environmental Quality Review Act

Grantee: Open Space Institute (“OSI”)

ESD Investment: \$25,000,000 approved on November 15, 2006 (Empire Opportunity Fund)

Project Location: Statewide

NYS Empire

Zone: N/A

Project

Completion: December 2011

Request For: Authorization to adopt findings pursuant to the State Environmental Quality Review Act (“SEQRA”) in order to include updates to the New York State Open Space Conservation Plan.

Background/Project Status:

These materials refer to and include, in their entirety, the attached materials presented to and approved by the ESD Directors as mentioned above. At their meeting on November 15, 2006, the ESD Directors made findings and determinations authorizing a \$25,000,000 grant to the Open Space Institute, to be used to protect open space, farmland and historic sites. Project activities were to take place over five years and were to be undertaken in the advancement of, and in accordance with, the policies and procedures set forth in the 2002 New York State Open Space Conservation Plan (the “2002 Plan”).

Article 49, Title 2 of the Environmental Conservation Law requires that the New York State Department of Environmental Conservation (“DEC”) and the New York State Office of Parks, Recreation and Historic Preservation (“OPRHP”) prepare and periodically revise a State Land Acquisition Plan to guide the selection of projects for state acquisition, taking into account regional advisory committee priorities and the agencies’ assessment of the need for land acquisition projects. The State Open Space Conservation Plan is a comprehensive approach to open space protection that contains a range of conservation strategies, including acquisition.

The 2002 Plan identifies the types and locations of open space resources, enumerates various open space conservation methods and describes the selection process for determining when acquisition may be the appropriate method of open space conservation. It also includes a statement of goals and a description of the overall strategies for meeting those goals, and an

Open Space Institute Capital (U574)

January 21, 2010

explanation of the need for creating partnerships with federal and local governments and non-profit conservation organizations. Accordingly, OSI partnered with DEC and OPRHP to secure critical open space on behalf of the state by working with private landowners that donate or sell conservation easements to OSI.

Public hearings were held in Albany, Buffalo, New Paltz, New York City, Rochester, and Syracuse on December 27, 2006, in order to provide an opportunity for public comment on the project. No negative testimony was received. The Grant Disbursement Agreement (“GDA”) was fully executed on December 29, 2006. The GDA was amended on April 9, 2007, to include the breakdown of public hearing fees.

Subsequently, at the direction of ESD leadership, the Grant Disbursement Agreement was amended again. Per the terms of the 2nd GDA Amendment executed on July 11, 2007, ESD disbursed \$25,000,000 to OSI as a loan (the “ESD Loan”). Funds were then loaned by OSI to The Nature Conservancy for acquisition of 161,000 acres of forest land known as the Finch Pruyn Property in Warren, Hamilton, Saratoga, Fulton, and Washington Counties, New York. Per the terms of the ESD Loan, OSI will repay the ESD Loan quarterly on agreed-upon terms. As funds are repaid, they become available for disbursement by ESD to OSI as grant funds. As of January 11, 2010, OSI has complied with all terms; \$15,000,000 has been repaid to ESD, of which \$1,515,000 has been disbursed to OSI as grant funds for land purchases.

Since the Directors’ approval, updates were made to the State Open Space Conservation Plan in 2006 and 2009. The 2009 New York State Open Space Conservation Plan (the “2009 Plan”) updates and revises the comprehensive statewide open space conservation plan and builds upon earlier editions. To ensure that OSI’s future land purchases using ESD funds are consistent with the goals and within the scope of the most recent State Open Space Conservation Plan, and to ensure compliance with the provisions of SEQRA, the ESD Directors are requested to adopt new findings pursuant to SEQRA based on the 2009 Final Generic Environmental Impact Statement (“FGEIS”) for the updated 2009 Plan.

Environmental Review:

ESD (the “Corporation”), pursuant to the State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law, and its implementing regulations (6 NYCRR Part 617), ratifies and makes the following findings based on the FGEIS certified as complete on June 17, 2009 by the DEC and OPRHP, as co-lead agencies, in connection with the 2009 update of the New York State Open Space Conservation Plan (the “proposed action”), which sets the basis for the administration of the Open Space Institute’s Statewide Open Space, Farmland and Historic Preservation Program. SEQRA requires the adoption of written findings, supported by a statement of relevant facts and conclusions considered, prior to agency decisions on actions that have been the subject of an FGEIS. The Findings Statement, attached as Exhibit A, contains the facts and conclusions in the Draft Generic Environmental Impact Statement (“DGEIS”) and FGEIS relied upon to support the Corporation’s decision on the action that is the subject of the requested authorization.

Open Space Institute Capital (U574)

January 21, 2010

The findings that the Corporation hereby ratify and make are that:

- The Corporation has given consideration to the DGEIS and FGEIS;
- The requirements of the SEQRA process, including the implementing regulations of the New York State Department of Environmental Conservation, have been met;
- Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the proposed action is one that avoids or minimizes significant adverse environmental effects to the maximum extent practicable, including the effects disclosed in the relevant environmental impact statement;
- Consistent with social, economic and other essential considerations to the maximum extent practicable, any significant adverse environmental effects revealed in the environmental impact statement process as a result of the proposed action will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures which were identified as practicable; and
- The proposed action is in compliance with Section 14.09 of the State Historic Preservation Act.

Therefore it is recommended that the Corporation ratify and adopt the SEQRA Findings Statement attached as Exhibit A.

Attachments: Resolution
Exhibit A
ESD Directors' Materials dated November 15, 2006

January 21, 2010

Statewide – Open Space Institute Capital – Adoption of Findings Pursuant to the State Environmental Quality Review Act

RESOLVED, that with respect to the Open Space Institute Capital project (the “Project”), the Corporation hereby makes and adopts pursuant to SEQRA the following findings and determinations, which findings and determinations are made after full consideration of the Findings Statement attached as Exhibit A hereto, which Exhibit A is hereby adopted by the Corporation and copies of which document are hereby filed with the records of the Corporation.

- The Corporation has given consideration to the Draft and Final Generic Environmental Impact Statement (“DGEIS” and “FGEIS”, respectively) prepared for the 2009 New York State Open Space Conservation Plan;
- The requirements of the SEQRA process, including the implementing regulations of the New York State Department of Environmental Conservation, have been met;
- Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the Project is one that avoids or minimizes adverse environmental effects to the maximum extent practicable, including the effects disclosed in the FGEIS and the Findings Statement;
- Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures described in the FGEIS and the Findings Statement; and
- The Project is in compliance with Section 14.09 of the State Historic Preservation Act;

and be it further

RESOLVED, that the Chairman and Chief Executive Officer-Designate of the Corporation or his designee(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to comply with the requirements of SEQRA in connection with the Project.
